

In the Matter of EDGEWATER STEEL COMPANY and UNITED STEEL-
WORKERS OF AMERICA, CIO

Case No. 6-R-953.—Decided June 29, 1944

Messrs. C. M. Thorp, Jr., and Davitt S. Bell, both of Pittsburgh, Pa.,
for the Company.

Mr. Philip M. Curran, of Pittsburgh, Pa., Mr. S. Harold Grossman,
of Tarentum, Pa., and *Mr. Stanley J. Browning, of Oakmont, Pa.,* for
the Union.

Mr. Glenn L. Moller, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Edgewater Steel Company, Oakmont, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Allen Sinsheimer, Jr., Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on May 19, 1944. The Company and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.¹ The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Edgewater Steel Company, a Pennsylvania corporation, with its principal office and place of business in Oakmont, Pennsylvania, is

¹ Edgewater Employees Independent Union was duly notified of the hearing, but failed to appear.

engaged in the manufacture of steel products, principally locomotive tires, rolled steel railroad wheels, rolled steel rings, and ring springs.

During the year 1943, the Company purchased raw materials, consisting principally of pig iron, scrap, bars, billets, coal, oil, and gas, amounting in value to approximately \$8,000,000. Approximately 34 percent of the aforesaid raw materials used by the Company was shipped to the Company's Oakmont plant from points outside the State of Pennsylvania. During the same period the Company produced finished products valued in excess of \$20,000,000, approximately 70 percent of which was shipped from the Company's Oakmont plant to points outside the State of Pennsylvania.

The Company admits, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Steelworkers of America, Local No. 1246, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On March 9, 1944, the Union wrote to the Company requesting recognition as the exclusive bargaining representative of the Company's employees. On March 16, 1944, the Company replied, refusing to grant such recognition until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.²

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Union contends that the appropriate unit consists of all production and maintenance employees at the Company's plant at Oakmont, Pennsylvania, including truck drivers, leadmen, lay-out men, stencilers, checkers, toolroom attendants, powerhouse attendants, janitors, and first janitor, locomotive engineers, elevator operators, and inspectors, but excluding all salaried employees, plant guards, watchmen, clerical employees, trainers, servicemen, laboratory employ-

² The Board agent reported that the Union submitted 461 authorization cards; and that there are approximately 1,257 employees in the appropriate unit.

ees, recorders, weighmen, chief inspector, gang leaders and all other supervisory employees with authority to hire, promote, discipline, discharge, or otherwise effect changes in the status of employees, or effectively to recommend such action.³ The Company agrees generally that the unit sought by the Union is appropriate but contends that trainers, servicemen, laboratory employees, recorders, watchmen, weighmen, and gang leaders should be included in the appropriate unit. The Company also contends that the fact that an employee is salaried rather than hourly paid does not justify his exclusion from the bargaining unit.

The Union seeks to exclude from the unit all salaried employees. Where it appears that the basis upon which employees are compensated is directly related to a reasonable classification of such employees with respect to their status, functions, educational qualifications, or other factors bearing upon their concerns in collective bargaining, we will consider the form in which particular individuals or categories are compensated as an aid to the determination of their proper classification for unit purposes. Here, however, it appears that the method of computing the employees' compensation bears little or no relations either to their functions, skill, or status. Thus, some gang leaders, servicemen, toolroom attendants, and recorders are salaried, while others are hourly paid, although the duties, functions and responsibilities of all employees in each category appear to be identical. Under these circumstances, it is evident that the manner in which the employees involved herein are paid is not a reliable criterion for determining how they should be grouped for bargaining purposes. We shall not, therefore, exclude from the unit salaried employees *per se*.

Trainers are older, experienced employees who teach new employees to operate the machines and to perform the other functions required of them. They are paid on an hourly, piece-rate basis, like most of the other employees, their piece-work rate being determined by the average piece-work-rate which they maintained when they themselves were engaged in production work. They have no authority over the employees and have no duty to make recommendations concerning the employees whom they instruct. In the event that the Company's business decreases, they will resume regular production work. The Union contends that they are neither production nor maintenance employees, and should, therefore, be excluded. Their functions, however, are closely related to and integrated with those of

³ The record shows clearly that leadmen and the first janitor are not supervisory employees.

the production employees. We shall include them in the appropriate unit.

Servicemen are attached to the various production departments and are responsible to the department foremen and superintendents. Their functions are similar to those of expeditors, except that they are attached to departments, rather than being directly responsible to the central management, and they do not follow materials through the entire production process. It is their responsibility to see that their own departments have the necessary materials and tools to do the jobs assigned to them. After their departments have completed their part of the production process, the responsibility of the servicemen with respect to the products ceases. They have no authority of any kind over the men in their departments. Although they assume some of the duties of the foremen in the event that the latter are absent, they do not assume any of the foremen's supervisory duties, which are taken over entirely by the department superintendents. Although the Union contends that servicemen are supervisory employees, it offered no evidence to substantiate its contention. We shall include the servicemen in the appropriate unit.

Laboratory employees: The Company maintains a testing laboratory in which it tests its finished products to insure their conformance to the required standards of quality. The employees in the laboratory are not specially trained and perform only routine tests which require no particular discretion or technical knowledge. They are salaried employees and for this reason the Union seeks to exclude them from the unit. For the reasons hereinbefore stated, we do not consider the basis of compensation of the employees to be a decisive consideration in the instant case. We find no persuasive reason for excluding the laboratory employees from the appropriate unit, and accordingly shall include them.⁴

Recorders (also called production recorders) are attached to the various production departments and are responsible to the department superintendents and foremen. Their duties are almost entirely clerical in nature, including making up the piece-work data which determines the income of the employees in their departments, filling out time sheets and production records, collecting figures on materials produced and used in the departments, and seeing that materials arrive on time. Since their duties are primarily clerical and the Union wishes to exclude them, we shall exclude the recorders (production recorders) from the appropriate unit.⁵

⁴ *Matter of Pittsburgh Plate Glass Company*, 53 N. L. R. B. 1181; *Matter of Monarch Aluminum Mfg. Co.*, 53 N. L. R. B. 756.

⁵ *Matter of New Britain Machine Company*, 48 N. L. R. B. 263.

Watchmen: The Company has armed, uniformed, and militarized guards, who both parties agree should be excluded from the unit. In addition to the guards, the Company has a group of employees known as watchmen. The watchmen are uniformed but are not armed or militarized. Their duties are simply to patrol the property and to watch for fires or other conditions which might endanger the Company's property. Since they are watchmen, as distinguished from specialized plant protection guards, we shall include them in the appropriate unit.⁶

Weighmen operate the scales upon which the finished products are weighed. The work is unskilled and manual in nature. Weighmen have frequently become handlers or inspectors, more skilled and more highly paid categories, both of which the parties agree are properly part of the appropriate unit. In addition to their duties as operators of the scales, weighmen sometimes cut stencils, sweep the floors, and do other routine tasks. It appears that there is presently only one weighman in the Company's employ. The Union contends that weighmen should be excluded because they are neither production nor maintenance employees. We find no merit to this contention, and shall include this category in the appropriate bargaining unit.

Gang leaders: The Union contends that gang leaders are supervisory employees and, therefore, should be excluded from the unit. The Company denies that they possess supervisory powers and desires their inclusion. Gang leaders, of whom there are about 50, work alone or with groups of employees generally, about 5 or 6 in number. They are usually the more experienced employees of the Company. They convey orders from the foremen to the employees and are consulted by the men as to possible changes or corrections with respect to equipment, but they have no authority to order that such changes be made. They have no authority to hire, discharge, or otherwise effect changes in the status of employees, nor do their recommendations with respect to such matters carry more weight than those of other employees. Since the gang leaders possess none of the indicia of supervisory employees, we shall include them in the appropriate unit.⁷

We find that all production and maintenance employees of the Company at its plant at Oakmont, Pennsylvania, including truck drivers, leadmen, watchmen, lay-out men, stencilers, janitors, the first janitor, checkers, toolroom attendants, powerhouse attendants, locomotive engineers, elevator operators, trainers, servicemen, laboratory employees, weighmen and gang leaders, but excluding superintendents,

⁶ *Matter of Corn Products Refining Company*, 56 N. L. R. B. 1140; *Matter of Ash Grove Lime and Porcelain Cement Company*, 55 N. L. R. B. 1007.

⁷ *Matter of Faultless Caster Corporation*, 53 N. L. R. B. 1335.

assistant superintendents, foremen, the chief inspector, timekeepers, all plant guards, recorders (production recorders), clerical employees and any and all supervisory employees with authority to hire, promote, discipline, discharge, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

The Company frequently employs persons to do extra work on week ends. These are usually either school boys or persons who are regularly employed elsewhere. None of them works regularly from week to week. The parties both agree that such employees should be excluded from participation in the election. We agree that these casual-employees do not have sufficient interest in the determination of representatives to justify their participation in the election, and we find, therefore, that they are ineligible to vote.

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.⁸

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Edgewater Steel Company, Oakmont, Pennsylvania, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Sixth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, and our determination in Section V, above, among the employees in the unit found appropriate in Section IV, above, who were employed during the payroll period immediately preceding the date of this Direction,

⁸ The Union requested that eligibility be based upon the Company's pay roll as of the date of the filing of the petition, but offers no substantial reason why our customary procedure should not be followed. The Union's request is denied.

including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by United Steelworkers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

Mr. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Election.