

In the Matter of FIRESTONE TIRE & RUBBER CO. (AIRCRAFT DIVISION)
and UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA (U. A. W.-C. I. O.)

In the Matter of FIRESTONE TIRE & RUBBER CO. (AIRCRAFT DIVISION)
and AMERICAN FEDERATION OF LABOR

In the Matter of FIRESTONE TIRE & RUBBER CO. (AIRCRAFT DIVISION)
and AMERICAN FEDERATION OF LABOR

*Cases Nos. 10-R-1161, 10-R-1184 and 10-R-1185 respectively.—
Decided July 3, 1944.*

Mr. Henry S. Brainard, of Akron, Ohio, and *Mr. W. H. Hadley*,
of Atlanta, Ga., for the Company.

Messrs. A. H. Atterway and *Daniel Duke*, of Atlanta, Ga., for the
C. I. O.

Mr. George L. Googe, of Atlanta, Ga., for the A. F. of L.

Mr. J. O. Moore, of Atlanta, Ga., for the Painters.

Mr. J. H. Childress, Jr., of Atlanta, Ga., for the I. B. E. W.

Mr. O. M. Harper, of Atlanta, Ga., for the Carpenters.

Mrs. Platonia P. Kaldes, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by United Automobile, Aircraft & Agricultural Implement Workers of America (U. A. W.-C. I. O.), herein called the C. I. O., and the American Federation Labor,¹ herein called the A. F. of L., each alleging that a question affecting commerce had arisen concerning the representation of employees of Firestone Tire

¹ The A. F. of L. appeared for itself and specially for the following affiliated unions: (1) Painters District Council No. 38, Brotherhood of Painters, Decorators and Paper Hangers of America, herein called the Painters; (2) Carpenters Local Union No. 225, United Brotherhood of Carpenters and Joiners of America, herein called the Carpenters; (3) International Brotherhood of Electrical Workers of America, herein called the I. B. E. W.; and (4) Plumbers and Steam Fitters Union Local No. 72, herein called the Plumbers. All these craft organizations, except the Plumbers, were also individually represented.

& Rubber Co. (Aircraft Division), herein called the Company, the National Labor Relations Board ordered that the proceedings be consolidated and provided for an appropriate hearing upon due notice before T. Lowry Whittaker, Trial Examiner. Said hearing was held at Atlanta, Georgia, on May 24, 1944. The Company, the C. I. O., and the A. F. of L. 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. 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

Firestone Tire & Rubber Co. is an Ohio corporation with its principal place of business in Akron, Ohio. In normal times its business consists primarily of the manufacturing of tires, tubes, and other rubber products. Among others, it operates a plant located at Atlanta, Georgia, known as the Aircraft Division of the Company, with which we are solely concerned in this proceeding. At the Aircraft Division, the Company is engaged in the manufacture of products contracted for by the Federal Government for use in the war effort. Substantially all the materials shipped to the Aircraft Division for use in fulfilling the Government contracts come from sources outside the State of Georgia and substantially all the finished products manufactured at the Aircraft Division are shipped to points outside the State of Georgia for disposition by the Federal Government.

We find that, at its Aircraft Division, the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Automobile, Aircraft & Agricultural Implement Workers of America (U. A. W.-C. I. O.), affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

American Federation of Labor is a labor organization admitting to membership employees of the Company.

Painters District Council No. 38, Brotherhood of Painters, Decorators and Paper Hangers of America, affiliated with the American Federation of Labor is a labor organization admitting to membership employees of the Company.

Carpenters Local Union No. 225, United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

International Brotherhood of Electrical Workers, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

Plumbers and Steam Fitters Union Local No. 72, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

On March 11, 1944, the C. I. O. wrote to the Company stating that it represented a majority of its employees, requesting recognition as the exclusive bargaining representative of said employees and seeking a conference. On March 20, 1944, the Company wrote to the C. I. O. stating that it would agree to the holding of a conference.

Subsequently, the Company and the C. I. O. reached a tentative agreement for the holding of a consent election. On March 23, 1944, the C. I. O. filed its petition herein.²

On March 30, 1944, pursuant to an arrangement with the Company, a notice was posted in the plant by the Board's Field Examiner stating that the C. I. O. had filed with the Board a petition for investigation and certification of representatives, and requesting any other labor organization which represented or desired to represent any of the employees in the plant to communicate with the Board's Regional Office at Atlanta. On April 7, 1944, the A. F. of L., through one of its affiliates, distributed handbills to employees in the plant, and on April 20 and 27, 1944, respectively, it filed petitions with the Board for the investigation and certification of representatives of certain of the employees here involved.³ The Company, having become apprised of the claim of the A. F. of L., refused and, at the time of the hearing, continued to refuse to recognize either the C. I. O. or the A. F. of L. as the representative of any of its employees until the Board had certified either or both in an appropriate unit or units.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. represents a substantial number of employees in the unit it alleges to be appropriate in Case No. 10-R-1161, and that the A. F. of L. represents a substantial number of

² Case No. 10-R-1161.

³ Cases Nos. 10-R-1184 and 10-R-1185

employees in each of the units it alleges to be appropriate in Cases Nos. 10-R-1184 and 10-R-1185.⁴

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

IV. THE APPROPRIATE UNIT; THE DETERMINATION OF REPRESENTATIVES

In Case No. 10-R-1161, the C. I. O. seeks a unit composed of all employees in the inspection department, procurement and control department, production department, plant engineering department, and planning and tooling department of the Company's Aircraft Division, excluding the employees in the comptroller division, engineering liaison department, personnel division, all salaried employees, hourly paid supervisors, trainees outside the plant, and all supervisory employees.

In Case No. 10-R-1184, the A. F. of L. seeks, primarily, a unit composed of all employees in the plant engineering department of the Company's Aircraft Division, excluding common laborers and janitors, all salaried employees, hourly paid supervisors, trainees outside the plant, and all employees in other departments or divisions of the said Aircraft Division. As an alternative, the various affiliated craft organizations whose interests the A. F. of L. specially represented at the hearing propose separate craft units of their members who are engaged in the plant engineering department⁵ of the Aircraft Division.

⁴The following table summarizes the authorization evidence submitted to the Field Examiner

Designations submitted	Names on Apr. 2, 1944, pay roll covering unit in question	Names on valid designations appearing on Apr. 2, 1944 pay roll ¹
10-R-1161		
C. I. O., 624	1,397	550
10-R-1184		
C. I. O., 10	46	10
A. F. of L., 31		19
10-R-1185		
C. I. O., 1	2	1
A. F. of L., 1		

¹ The Field Examiner made a complete check of all designations submitted against this pay roll.

² The evidence at the hearing indicated that there were only 2 employees (pattern makers) in the unit sought by the A. F. of L. in Case No. 10-R-1185.

⁵ There are approximately 6 carpenters, 4 electrical repairmen, 2 welders, 3 millwrights, 6 painters, 2 oilers, 4 maintenance men, 4 pipe fitters, 2 gang leaders, 30 janitors, and 15 common laborers employed in the plant engineering department, excluding supervisory and other categories of employees not here involved. Under the A. F. of L.'s alternative proposal, the Carpenters would represent the carpenters, millwrights, maintenance men, and gang leaders; the I. B. E. W. would represent the electrical repairmen, the Plumbers would represent the pipe fitters and welders, and the Painters would represent the painters. The consolidated unit primarily contended for would include all the members of these various crafts and, in addition, the 2 oilers.

In Case No. 10-R-1185, the A. F. of L. seeks a unit comprised of all pattern makers in the Company's Aircraft Division, excluding all other employees.

The Company takes a neutral position with respect to the unit contentions of the parties, although it asserted that it preferred to deal with as few unions as possible.

The Company has only recently undertaken the operation of the Aircraft Division and consequently has had no past bargaining history with respect to this particular plant.

An analysis of the contentions of the parties reveals that the unit sought by the C. I. O. is essentially an industrial unit; that the unit primarily contended for by the A. F. of L. in Case No. 10-R-1184 is, in effect, a multicraft unit confined to members of its various craft organization affiliates who are engaged in the plant engineering department in general plant maintenance work;⁶ and that the unit desired by the A. F. of L. in Case No. 10-R-1185 is a craft unit.

The record establishes that the Company operates the plant herein involved as an integrated manufacturing unit on a departmental basis. Clearly, therefore, an industrial unit would be feasible for collective bargaining purposes. The evidence also indicates, however, that the unit of pattern makers and the unit primarily proposed by the A. F. of L. in the plant engineering department could function separately for the purposes of collective bargaining as each group of employees sought is skilled, homogeneous, and functionally distinct. Although the latter unit does not include certain members of similar crafts engaged in departments other than the plant engineering department,⁷ we do not find the omission objectionable under the facts in this case. It is undisputed that the excluded employees must have a different type of skill for the performance of their duties, that they work under different conditions and supervision, and that there is no interchange of employees between the plant engineering department and other departments. It thus appears that the exclusion of such other employees from the multi-craft unit sought in Case No. 10-R-1184 would not impede the orderly processes of collective bargaining.

In view of the absence of any history of collective bargaining, and considering the foregoing facts, we shall permit the pattern makers

⁶ The electrical repairmen make installations and repair heavy electrical equipment of one-fourth horsepower and up; they also work on live wires of high voltage, sometimes at great heights. The welders do general maintenance welding which includes acetylene and electric arc welding of steel and cast iron. The painters do the usual type of maintenance painting work throughout the plant. The maintenance men perform the usual duties of maintenance mechanics, repairing machinery, scraping bearings, and replacing parts throughout the factory. The carpenters, millwrights, and oilers perform throughout the plant the customary duties of employees in such classifications.

⁷ We here refer to the maintenance men engaged in the planning and tooling department in repairing small electrical motors, jigs, fixtures, or machines; the welders in the same department engaged in welding jigs and fixtures; and the painters in the production department engaged in painting or "touching up" the products manufactured by the Company.

and the group of employees principally sought by the A. F. of L. in the plant engineering department to express their desires in the elections hereinafter directed as to whether they shall bargain separately or as part of a more comprehensive unit. On the results of these elections will depend, in part, our determination of the appropriate unit or units.

We shall direct that separate elections by secret ballot be held among the employees in the following voting groups who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.⁸

(1) All pattern makers at the Company's Aircraft Division, excluding all other employees, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether they desire to be represented by the A. F. of L., or the C. I. O., for the purposes of collective bargaining, or by neither;

(2) All employees in the plant engineering department of the Company's Aircraft Division, excluding common laborers and janitors, all salaried employees, hourly paid supervisors, trainees outside the plant, all employees in other departments or divisions, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether they desire to be represented by the A. F. of L., or the C. I. O., for the purposes of collective bargaining, or by neither;

(3) The remaining employees in the plant engineering department, all employees in the inspection department, procurement and control department, production department, and planning and tooling department of the Company's Aircraft Division, excluding all pattern makers, employees in the comptroller division, engineering liaison department, personnel division, all salaried employees, hourly paid supervisors; trainees outside the plant, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether or not they desire to be represented by the C. I. O. for the purposes of collective bargaining.

DIRECTION OF ELECTIONS

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,

⁸ The A. F. of L. requested that April 2, 1944, the pay-roll date used by the Field Examiner to check the authorization cards, be used as the eligibility date. No evidence was presented, however, which would persuade us to depart from our customary procedure.

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 Firestone Tire & Rubber Co., Aircraft Division, Atlanta, Georgia, 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 Tenth 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, among the following voting groups of employees who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during the 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.

(1) All pattern makers at the Company's Aircraft Division, excluding all other employees, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether they desire to be represented by United Automobile, Aircraft & Agricultural Implement Workers of America (U. A. W.-C. I. O.), affiliated with the Congress of Industrial Organizations, or by the American Federation of Labor, for the purposes of collective bargaining, or by neither;

(2) All employees in the plant engineering department of the Company's Aircraft Division, excluding common laborers and janitors, all salaried employees, hourly paid supervisors, trainees outside the plant, all employees in other departments or divisions, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommended such action, to determine whether they desire to be represented by United Automobile, Aircraft & Agricultural Implement Workers of America (U. A. W.-C. I. O.), affiliated with the Congress of Industrial Organizations, or by the American Federation of Labor, for the purposes of collective bargaining, or by neither;

(3) The remaining employees in the plant engineering department, all employees in the inspection department, procurement and control department, production department, and planning and tooling department of the Company's Aircraft Division, excluding all pattern makers, employees in the comptroller division, engineering liaison depart-

ment, personnel division, all salaried employees, hourly paid supervisors, trainees outside the plant, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether or not they desire to be represented by United Automobile, Aircraft & Agricultural Implement Workers of America (U. A. W.-C. I. O.), affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.