

In the Matter of FIDELITY MACHINE COMPANY and LOCAL 155, UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, C. I. O.

Case No. 4-R-1418.—Decided July 13, 1944

Souser, Schumacker & Taylor, by *Mr. Robert H. Kleeb*, of Philadelphia, Pa., for the Company.

Mr. Saul C. Waldbaum, of Philadelphia, Pa., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Local 155, United Electrical, Radio & Machine Workers of America, C.I.O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Fidelity Machine Company, Philadelphia, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene M. Purver, Trial Examiner. Said hearing was held at Philadelphia, Pennsylvania, on June 6 and 7, 1944. The Company and the Union appeared, participated, and 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 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

Fidelity Machine Company is a Delaware corporation operating a plant at Philadelphia, Pennsylvania, where it is engaged in the manufacture of precision machines and instruments. During 1943 the Company purchased raw materials valued in excess of \$500,000,

about 60 percent of which was shipped to it from points outside the State of Pennsylvania. During the same period the Company sold finished products valued in excess of \$500,000, less than 10 percent of which was shipped to points outside the State of Pennsylvania.

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

II. THE ORGANIZATION INVOLVED

Local 155, United Electrical, Radio & Machine Workers of America, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On April 25, 1944, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused this request.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

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 urges that all production and maintenance employees of the Company, including watchmen, the shipping and receiving clerk, and assistant storekeepers, but excluding supervisory employees, office employees, development department employees (consisting of senior inventor, chief mechanical designer, engineer, designer, junior draftsman, detailer, blueprinter, experimental mechanics and testing mechanics), and truck drivers, constitute an appropriate unit. The only controversy with respect to the unit concerns raw materials storekeeper, finished products storekeeper, and working foremen. The Union urges that all such employees be included in the unit while the Company contends that they should be excluded.

The Company has 6 employees classified as working foremen. One of them has from 3 to 30 employees under him, and each of the remainder has from 3 to 5. They spend about 85 percent of their time performing production work, are paid on an hourly basis, and receive about 15 percent more pay than the persons working under

¹ The Field Examiner reported that the Union presented 138 authorization cards. There are 150 persons in the appropriate unit.

them. They recommend the discipline of their subordinates, and are consulted by the Company with respect to the grading of other employees. We find that the working foremen are supervisory employees, and as such, we shall exclude them from the unit.

The Company has one employee classified as a finished products storekeeper. He is responsible for the maintenance of all records relating to materials coming in or going out of his department. He is paid on an hourly rate and has one assistant. Although he has authority over his assistant, it appears that the relationship between them is that of journeyman to helper rather than that of supervisor to non-supervisor. Accordingly, we shall include the finished products storekeeper in the unit.

The Company has one raw materials storekeeper. The facts with respect to this employee are similar to those set out above for the finished products storekeeper, the only difference being that the former deals with raw materials while the latter with finished products. For the reasons stated above we find that the raw materials storekeeper should be included in the unit.

We find that all production and maintenance employees of the Company, including watchmen, the shipping and receiving clerk, assistant storekeepers, finished products storekeeper, and raw materials storekeeper, but excluding office employees, development department employees (consisting of senior inventor, chief mechanical designer, engineer, designer, junior draftsman, detailer, blueprinter, and experimental mechanics and testing mechanics) and truck drivers, foremen, working foremen, and any other supervisory employees with authority to hire, promote, discharge, discipline, 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

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

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 Fidelity Machine Company, Philadelphia, 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 Fourth 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 employees in the unit appropriate in Section IV, above, 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 any 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 Local 155, United Electrical, Radio & Machine Workers of America, C. I. O., for the purposes of collective bargaining.