

In the Matter of C. I. BRINK, INCORPORATED and UNITED STEEL-
WORKERS OF AMERICA, C. I. O.

Case No. 1-R-1846.—Decided July 20, 1944

Mr. James F. Connolly, of Boston, Mass., for the Company.

Grant & Angoff, by *Mr. Sidney S. Grant*, of Boston, Mass., for the Steelworkers.

Mr. Ernest A. Johnson, of Boston, Mass., for the Council.

Mr. Edward J. Finerty, of East Milton, Mass., for the Association.

Mr. Bernard Goldberg, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, C. I. O., herein called the Steelworkers, alleging that a question affecting commerce had arisen concerning the representation of employees of C. I. Brink, Incorporated, South Boston, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Leo J. Halloran, Trial Examiner. Said hearing was held at Boston, Massachusetts, on May 4, 1944. The Company, the Steelworkers, and the Building and Construction Trades Council of the Boston Metropolitan District, A. F. L., herein called the Council, appeared and participated. On May 24, 1944, the Board ordered the record reopened to permit the parties to adduce further evidence on the scope of the appropriate unit and to give the Massachusetts Sign Contractors' Association, herein called the Association, an opportunity to appear and present evidence. Pursuant to such order, a second hearing was held at Boston, Massachusetts, on June 22, 1944, before the same Trial Examiner. At this second hearing the Company, the Steelworkers, the Council, and the Association, appeared and participated. At both hearings 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 prejudi-

cial 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

C. I. Brink, Incorporated, a Massachusetts corporation, is engaged in the manufacture of sheet metal marine products for the armed services and in the maintenance and servicing of signs at its plant in South Boston, Massachusetts. Of the raw materials which it uses in its manufacturing processes, 5 percent is purchased from sources outside the Commonwealth of Massachusetts. During the year ending March 1, 1944, the Company shipped finished products of a value in excess of \$50,000 to contractors outside the Commonwealth.

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

II. THE ORGANIZATIONS INVOLVED

United Steelworkers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Building and Construction Trades Council of the Boston Metropolitan District, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Steelworkers as the exclusive bargaining representative of its production and maintenance employees until the Steelworkers 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 Steelworkers represents a substantial number of employees in the unit hereinafter found 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.

¹ The Field Examiner reported that the Steelworkers submitted 52 application cards; that the names of 43 persons appearing on the cards were listed on the Company's pay roll of April 1, 1944, which contained the names of 83 employees in the appropriate unit; and that the cards were dated in March 1944. The Council relies on its contract which expired on March 1, 1944.

IV. THE APPROPRIATE UNIT

The Steelworkers seeks a unit of all production and maintenance employees of the Company. The Council, the Association, and the Company contend that an Association-wide unit is appropriate. For many years prior to 1943, the Company was engaged exclusively in the manufacture and maintenance of neon signs and outdoor advertising displays. In 1943, it discontinued the manufacture of signs because of its inability to obtain material and converted part of its production facilities to the manufacture of sheet metal marine products for the armed services. However, it continued its business of servicing and repairing signs. Two-thirds of its business is now in war contracts, with the balance in the maintenance and repair of signs.

Beginning in 1937 and continuing to the present time, the Association, of which the Company is a member, has conducted contract negotiations with the Council, representing the different craft unions in the sign industry. While the Association itself has not signed any contracts, the Association members have signed identical labor contracts with the Council. Pursuant to such contracts, employee grievances have been disposed of by the Council and the Association. The most recent contracts negotiated between the Council and the Association expired on March 1, 1944, and at the present time negotiations are under way between the Association and the Council for new contracts.

Until recently the Council, as a matter of policy, made no attempt to organize the employees of the Company engaged in the manufacture of sheet metal marine products; these are, it appears, principally new employees not previously employed in the sign business. Although it had a closed-shop contract with the Company, the Council made no demands on the employer for compliance with the closed-shop provisions with respect to these employees. The Council's position is that the Company will revert exclusively to the manufacture of signs upon termination of the war and that thereafter there will be no place for these employees because of their lack of specialized training and skill in the sign industry.

In view of the long continued satisfactory bargaining relationship which has existed between the members of the Association and the Council on an Association-wide basis with respect to the employees engaged in the manufacture and maintenance of signs, we shall exclude such employees from the unit.²

We find that all production and maintenance employees of the Company, excluding all employees engaged in the manufacture and maintenance of signs, office and clerical employees, executives, and all or

² See *Matter of Detroit Michigan Stove Company*, 55 N. L. R. B. 1514.

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 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 purpose of collective bargaining with C. I. Brink, Incorporated, South Boston, Massachusetts, 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 First 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 found 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 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 they desire to be represented by United Steelworkers of America, affiliated with the Congress of Industrial Organizations, or by the Building and Construction Trades Council of the Boston Metropolitan District, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.