

In the Matter of AUBURN SPARK PLUG CO., INC. and UNITED AUTOMOBILE WORKERS OF AMERICA, A. F. L.

Case No. 3-R-809.—Decided July 27, 1944

Fraser Brothers, by *Mr. Henry Fraser*, of Syracuse, N. Y., for the Company.

Messrs. Maurice Denby and *Norrett Downey*, of Auburn, N. Y., for the Union.

Mr. Bernard Goldberg, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Automobile Workers of America, A. F. L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Auburn Spark Plug Co., Inc., Auburn, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Peter J. Crotty, Trial Examiner. Said hearing was held at Auburn, New York, on June 27, 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. At the hearing, the Trial Examiner reserved for the Board a ruling on the Company's motion to dismiss the petition. For the reasons hereinafter stated, the said motion is hereby denied. 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

Auburn Spark Plug Co., Inc., is a New York corporation engaged in the manufacture of spark plugs, screw machine products, and
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aeronautical parts at its plant in Auburn, New York. From January 1, 1943, to December 31, 1943, the Company used in its manufacturing processes raw materials valued at approximately \$250,000, of which at least 50 percent was shipped to it from points outside the State of New York. During the same period, the Company manufactured finished products valued at about \$500,000, of which more than 25 percent was shipped to points outside the State of New York.

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

II. THE ORGANIZATION INVOLVED

United Automobile Workers of America, 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 Union as the exclusive bargaining representative of its production and maintenance employees 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.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

We find, in substantial agreement with the stipulation of the parties, that all production and maintenance employees, including all in-

¹ The Field Examiner reported that the Union submitted 200 authorization cards; and that 196 cards were dated in March 1944, and 4 were undated. He also reported that the Company refused to submit the pay-roll for his inspection. He thereupon estimated the number of employees in the unit petitioned for as 280. At the hearing the Company's pay-roll for the week ending June 13, 1944, was admitted in evidence. According to this pay-roll, the Trial Examiner reported, there are 228 employees in the unit sought by the Union.

The Company, in support of its motion to dismiss, contends that the refusal of the Trial Examiner to permit it to examine the authorization cards, and to cross-examine the witnesses and parties offering them in evidence constitutes a denial of "due process" under the Constitution. As we have frequently stated, authorization or membership cards are required, not as proof of the precise number of employees who desire to be represented by a labor organization, or as a basis for determining the appropriate representative, but simply to provide a reasonable safeguard against the indiscriminate institution of representation proceedings by labor organizations which might have little or no membership in the unit claimed to be appropriate. See *Matter of H. G. Hill Stores, Inc. Warehouse*, 39 N. L. R. B. 874; *Matter of Atlas Powder Company, Zapon Division*, 43 N. L. R. B. 757; *Matter of The Regina Corporation*, 57 N. L. R. B. 4. A similar motion in *Matter of Auburn Spark Plug Co. Inc.*, 50 N. L. R. B. 511, involving the same parties, was likewise denied.

spectors (other than the chief inspector and the head inspectors), factory or "shop" clerks, weigh clerks, receiving and shipping clerks, but excluding all supervisors, foremen, assistant foremen, salaried employees, watchmen, guards, nurses, assistants to the personnel manager, the experimental engineer, the chief inspector and all head inspectors, and all 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.²

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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Auburn Spark Plug Co. Inc., Auburn, New York, 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 Third 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 or not they desire to be represented by United Automobile Workers of America, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

² This is substantially the same unit found appropriate by the Board in *Matter of Auburn Spark Plug Co., Inc.*, 50 N. L. R. B. 511, a proceeding involving the same parties.