

In the Matter of MERCURY MANUFACTURING COMPANY and LOCAL 1114,
UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, CIO

Case No. 13-R-2493.—Decided August 5, 1944

Mr. Albert J. Smith, of Chicago, Ill., for the Company.

Mr. Louis Torre, of Chicago, Ill., for the Union.

Mr. Philip Licari, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Local 1114, United Electrical, Radio & Machine Workers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Mercury Manufacturing Company, Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George S. Freudenthal, Jr., Trial Examiner. Said hearing was held at Chicago, Illinois, on June 30, 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. 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

Mercury Manufacturing Company, an Illinois corporation, is engaged at Chicago, Illinois, in the manufacture of industrial power trucks, trailers and tractors. During the calendar year 1943, the Company purchased raw materials valued in excess of \$500,000, of which approximately 50 percent was shipped from points outside the State of Illinois. In the same period, the Company sold finished products

valued at approximately \$100,000, of which in excess of 50 percent was shipped to points outside the State of Illinois.

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

II. THE ORGANIZATION INVOLVED

Local 1114, United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On June 5, 1944, the Union sought recognition from the Company as the exclusive bargaining representative of its production and maintenance employees. On June 8, 1944, the Company declined to grant such recognition.

A statement of a Field Examiner for the Board, 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 accordance with the agreement of the parties, that all production and maintenance employees of the Company, including inspectors,² the expediter, the working foremen on the assembly floor,³ the master tool maker,⁴ and the set-up man in the machine shop,⁵ but excluding office and clerical employees, plant clerks-timekeepers, the day watchman, engineers, draftsmen, the general superintendent, the assistant superintendent, general foremen, night foremen, head of receiving stores and shipping department, and all other supervisory employees with authority to hire, promote, dis-

¹ The Field Examiner reported that the Union submitted 130 designation cards dated as follows: 92, May 1944; 26, June 1944; and 12, undated. He further reported that there were approximately 200 employees in the alleged appropriate unit.

² While the Union seeks to include inspectors, the Company takes no position with respect to them. It is clear that these employees merely inspect work for accuracy and quality, and do not exercise supervisory functions within the meaning of our customary definition. Therefore, they are included in the appropriate unit.

Both the Company and the Union took affirmative positions, and were in agreement, concerning the inclusion or exclusion of all other classifications of employees.

³ William Messmer now occupies this position, which is clearly not supervisory.

⁴ Max Hoeft now occupies this position.

⁵ Frank Lucas now occupies this position.

charge, 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Mercury Manufacturing Company, Chicago, Illinois, 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 Thirteenth 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 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 Local 1114, United Electrical, Radio & Machine Workers of America, CIO, for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.