

IN the Matter of THE SUPERIOR PATTERN COMPANY, THE OAKLEY PATTERN AND FOUNDRY COMPANY, GENERAL PATTERN WORKS and PATTERN MAKERS' LEAGUE OF NORTH AMERICA, A. F. OF L., DISTRICT No. 1

Cases Nos. 9-R-1461 to 9-R-1463 inclusive.—Decided August 10, 1944

Messrs. James G. Manley; Robert Frankl, Arthur Alfes, and Louis Oberlander, of Cincinnati, Ohio, for the Companies.

Mr. C. D. Madigan, of Cleveland, Ohio, and Mr. George J. Lanser, of Cincinnati, Ohio, for the Union.

Mrs. Catherine W. Goldman, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon petitions duly filed by Pattern Makers' League of North America, A. F. of L., District No. 1, herein called the Union, alleging that questions affecting commerce had arisen concerning the representation of employees of The Superior Pattern Company, The Oakley Pattern and Foundry Company, and General Pattern Works, all of Cincinnati, Ohio, herein called respectively, Superior, Oakley, and General, and collectively the Companies, the National Labor Relations Board provided for an appropriate consolidated hearing¹ upon due notice before James A. Shaw, Trial Examiner. Said hearing was held at Cincinnati, Ohio, on June 27, 1944. The Companies 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.

¹At the hearing the Companies objected to the order of the Board consolidating the cases on the ground that the issues in the cases are not the same; the Trial Examiner referred the matter to the Board. The objection is hereby overruled.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANIES

The Superior Pattern Company, an Ohio corporation with its principal office and place of business in Cincinnati, Ohio, is engaged in the manufacture of wood and metal patterns on special order for various machine tool companies. During 1943, Superior purchased raw materials amounting to \$50,000 in value. These materials were purchased from supply houses in Cincinnati, but originated from sources outside the State of Ohio. In addition, it purchased from companies outside the State of Ohio, machinery valued in excess of \$5,000. During the same period Superior sold finished products exceeding \$5,000 in value to companies outside the State of Ohio. It sold products exceeding \$200,000 in value to companies within the State of Ohio. Most of the Ohio companies to which Superior sells are engaged in war production, and three of them have previously been found to be within the jurisdiction of the Board.

The Oakley Pattern and Foundry Company, an Ohio corporation with its principal office and place of business in Cincinnati, Ohio, is engaged in the manufacture of wood and steel patterns and specially designed castings. During 1943 Oakley purchased raw materials amounting to \$40,000 in value, of which about 30 percent was purchased outside the State of Ohio. During the same period Oakley sold finished products amounting in value to \$200,000. Of this amount at least \$8,000 represents sales to companies outside the State of Ohio. Most of the Ohio companies to which Oakley sells are engaged in war production, and three of them have previously been found to be within the jurisdiction of the Board.

General Pattern Works, a partnership with its principal office and place of business in Cincinnati, Ohio, is engaged in the manufacture of wood and steel patterns. During 1943 General purchased raw materials amounting to \$6,000 in value from supply houses in Cincinnati. In addition, it purchased from sources outside the State of Ohio, machinery valued at approximately \$1,200. During the same period, General sold finished products amounting in value to \$70,000. Of this amount at least \$1,200 represents sales to companies outside the State of Ohio. Most of the Ohio companies to which General sells are engaged in war production, and one of them has previously been found to be within the jurisdiction of the Board.

We find, contrary to the contention of the Companies, that they are engaged in commerce within the meaning of the National Labor Relations Act.²

II. THE ORGANIZATION INVOLVED

Pattern Makers' League of North America, District No. 1, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The Companies have refused to recognize the Union as the exclusive bargaining representative of their employees.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the units hereinafter found appropriate.³

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

IV. THE APPROPRIATE UNITS

The Union and Superior and General are agreed that wood and metal pattern makers and pattern makers' apprentices of Superior and General constitute separate appropriate units. They are in disagreement, however, concerning an employee of General, whom General would include and the Union would exclude as a freeman. The Union contends that wood and metal pattern makers and pattern makers' apprentices of Oakley also constitute an appropriate unit, but Oakley contends that the unit should include all employees in its pattern shop.

The employee of General, concerning whom the parties are in disagreement, is Henry Oberlander, son of one of the partners operating

² The Companies contest the Board's jurisdiction on two grounds: (1) They contend that their operations are of such a local nature that they do not affect commerce within the meaning of the Act. We find the contention without merit. See *Matter of Ace Foundry, Limited*, 38 N. L. R. B. 392; *Matter of Crown Cork & Seal Company, Inc.*, 53 N. L. R. B. 741; (2) They contend that a discontinuance of their services because of a labor dispute would not interrupt the flow of interstate commerce since similar services might be obtained from other companies. We find the contention without merit. See *N. L. R. B. v. Bradford Dyeing Assn.*, 310 U. S. 318.

³ The Field Examiner reported that, in Case No. 9-R-1461, the Union submitted dues records showing 21 designations; that there are 33 employees in the unit requested for Superior; and that the records show that 15 of the persons paid dues in May 1944, and 6 in June 1944. He reported that, in Case No. 9-R-1462, the Union submitted dues records showing 6 designations; that there are 13 employees in the unit requested for Oakley; and that the records show dues payments for June 1944. He also reported that, in Case No. 9-R-1463, the Union submitted dues records showing 4 designations; that there are 10 employees in the unit requested for General; and that the records show that 3 of the persons paid dues in May 1944, and 1 in June 1944.

the business. Oberlander is a skilled pattern maker and spends at least 20 percent of his time in supervisory duties, laying out and directing the work of the other employees. The employees have been told to recognize him as foreman in the absence of his father, the manager of the plant. In view of his supervisory duties and his relationship with management, we shall exclude Henry Oberlander from the unit.

In the Oakley pattern shop there are three employees in addition to the employees requested by the Union whom Oakley would include in the unit. The first of these is a varnisher who shellacs the patterns after they have been completed by the pattern makers; he performs no pattern making. The second employee is a flask carpenter and maintenance man. He makes flasks, takes care of the machinery in the pattern shop, mounts and repairs patterns, and spends about 1 day a week at work which might be classified as pattern making. The third employee is a cooperative student, who for periods of 3 months alternately attends college and works as an apprentice pattern maker. He is the son of the treasurer of Oakley. It appears that these three employees are not eligible to membership in the Union. We are of the opinion that the interests of these employees are different from those of the regular pattern makers and apprentices in the pattern shop; accordingly, we shall exclude them from the unit.

We find, in Case No. 9-R-1461, that all wood and metal pattern makers and pattern makers' apprentices of Superior, excluding 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.

We find, in Case No. 9-R-1462, that all wood and metal pattern makers and pattern makers' apprentices of Oakley, excluding the varnisher, the flask carpenter, the cooperative student, 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, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

We find, in Case No. 9-R-1463, that all wood and metal pattern makers and pattern makers' apprentices of General, excluding Henry Oberlander, 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, 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 questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the appropriate units 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.

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, 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 The Superior Pattern Company, The Oakley Pattern and Foundry Company, and General Pattern Works, Cincinnati, Ohio, elections 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 Ninth 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 units 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 elections, to determine whether or not they desire to be represented by Pattern Makers' League of North America, A. F. of L., District No. 1, for the purposes of collective bargaining.

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