

In the Matter of LADISH DROP FORGE COMPANY *and* INTERNATIONAL BROTHERHOOD OF BLACKSMITHS, DROP FORGERS & HELPERS (AFL), AND INTERNATIONAL ASSOCIATION OF MACHINISTS (AFL)

Case No. 13-R-2453.—Decided August 21, 1944

Messrs. H. M. Knoeller and C. C. Gladson, both of Cudahy, Wis., for the Company.

Messrs. A. J. Eberhardy, P. L. Siemiller, and David Tischner, all of Chicago, Ill., for the AFL.

Mr. J. G. Meiner, of Cleveland, Ohio, for the Die Sinkers.

Mr. W. O. Sonnemann, of Milwaukee, Wis., for the CIO.

Mr. Joseph C. Wells, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by International Brotherhood of Blacksmiths, Drop Forgers & Helpers (AFL); and International Association of Machinists (AFL), herein collectively called the AFL, alleging that a question had arisen concerning the representation of employees of Ladish Drop Forge Company, Cudahy, Wisconsin, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert T. Drake, Trial Examiner. Said hearing was held at Milwaukee, Wisconsin, on June 29, 1944. The Company, the AFL, Milwaukee Die Sinkers Lodge No. 140 of the International Die Sinkers Conference, herein called the Die Sinkers, and United Steelworkers of America (CIO), herein called the CIO, 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 opportunity to file briefs with the Board.

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

57 N. L. R. B., No. 232.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Ladish Drop Forge Company, a Wisconsin corporation, is engaged in the manufacture and sale of rough and machined drop forgings and operates its only plant at Cudahy, Wisconsin. The Company annually purchases raw materials having a value in excess of \$2,000,000, of which approximately 80 percent is shipped to the plant from points outside the State of Wisconsin. The annual sales of the Company have a total value in excess of \$5,000,000, approximately 80 percent of which represents the value of products sold and shipped from the plant to points outside the State.

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

II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Blacksmiths, Drop Forgers & Helpers, and International Association of Machinists, both affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

Milwaukee Die Sinkers Lodge No. 140 of the International Die Sinkers Conference is a labor organization admitting to membership employees of the Company.

United Steelworkers 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

The Company has refused to grant recognition to the AFL as the exclusive bargaining representative of the Company's employees until the AFL has been certified by the Board in an appropriate unit.

A statement of a Field Examiner and a supplemental statement by the Trial Examiner, introduced into evidence at the hearing, indicate that the AFL represents a substantial number of employees in the units hereinafter found appropriate.¹

¹The Field Examiner reported that the AFL submitted 405 designation cards, and that 329 of these bore the names of employees listed on the Company's pay roll for the period ending May 20, 1944, which pay-roll contained the names of 1,113 persons in the alleged appropriate unit.

At the hearing the AFL submitted to the Trial Examiner 20 additional designation cards. The Trial Examiner stated that 16 of the cards submitted bore the names of persons listed on the same pay roll.

The Field Examiner further reported that the CIO was requested in writing on May 25, 1944, to submit representation evidence, if any, but failed to do so.

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 UNITS

The AFL contends that employees of the Company working in the steel stores department, forge shop, and the maintenance and repair department, excluding clerical employees, janitors, watchmen, sweepers, matrons, charwomen, the steel stores department liaison man, the forge-shop safety inspector, and supervisory employees, constitute an appropriate unit for the purposes of collective bargaining. The Company contends that the appropriate unit comprises all its production and maintenance employees, excluding all employees working on dies or parts used to complete forgings.² The CIO contends that a plant-wide unit of production and maintenance employees is appropriate.³ Neither the CIO nor the Company took any position with respect to those employees specifically excluded by the AFL from the unit it proposed.

The CIO and the Company in 1940 agreed to a consent election among all production and maintenance employees of the Company, excluding die sinkers, apprentices, learners, probationary employees, and supervisory employees. Pursuant to this agreement the Board held an election on October 11, 1940, in which the CIO was the only participating union. The employees who voted chose not to be represented by the CIO. Since about the time this election was held, the Company has recognized the Die Sinkers as the bargaining representative of its employees working on dies or parts of dies used to complete forgings. The CIO states that it presently is organizing the Company's employees, but, as indicated above, has submitted no representation evidence, and has not indicated any desire to participate in an election at the present time.

The Company's plant is divided into 16 production departments⁴ and a maintenance and repair department. Each of the production departments is under the direct supervision of its own foreman, and each of these departments performs a separate and distinct function in the manufacture of the Company's products. The maintenance and repair department is comprised of approximately 244 employees and operates to service all production departments and maintain the

² The Company since 1940 has recognized the Die Sinkers as the bargaining representative of all its employees working on dies or parts of dies used to complete forgings. None of these employees constitutes a part of the unit alleged to be appropriate by the AFL.

³ The Die Sinkers appeared for the sole purpose of disputing the appropriateness of the unit proposed by the CIO.

⁴ These are, viz, steel stores, forge shop, heat treating, cleaning, straightening, grinding and salvage, production machine, die room, painting, galvanizing, shipping, flange store, stockroom, power plant, inspection, and metalurgical.

plant premises. There are approximately 2,331 employees, exclusive of supervisory employees, in the 16 production departments, and approximately 843 employees, exclusive of supervisory employees, in the forge shop and steel stores department. The various departments in the plant are not organized on the basis of any difference in the skills or rates of pay of the employees working in such departments. However, there is nothing in the record to indicate that employees are frequently transferred from one department to another on a temporary basis. The AFL seeks to represent only the employees in the steel stores department, the forge shop, and the maintenance and repair department. It has not attempted nor been requested to represent employees of the Company in a plant-wide unit, and no other union at present seeks to represent the Company's employees on this broader basis. It appears that organization of all employees of the Company in the optimum unit for the purposes of collective bargaining is not probable within a reasonable time, and, therefore, we can perceive no valid reason why the employees in the departments desiring collective bargaining should be denied their rights on the ground that employees in the other departments of the plant apparently have no such desire.⁵ Accordingly, we find no merit in the contentions of the Company and the CIO with respect to the appropriateness of a unit less than plant-wide in scope.

While it is customary to include maintenance and repair employees with production employees in a plant-wide industrial unit, we deem it improper to include such employees in a production unit confined to two departments of a plant where only approximately one-third of all the production employees work in those two departments, and where the maintenance and repair department is organized to service all production departments.⁶ Therefore, we shall find appropriate at the present time separate units comprised of employees in the maintenance and repair department and employees in the forge shop and steel stores department. However, these findings will not preclude a finding at some later date that a larger, more inclusive unit is then appropriate.

We find that the following groups of employees constitute units appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act:

(1) All employees of the Company in its maintenance and repair department, excluding clerical employees, janitors, watchmen, sweepers, matrons, charwomen, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect

⁵ See *Matter of Gardner-Richardson Company*, 52 N. L. R. B. 1260; *Matter of Standard Overall Company*, 53 N. L. R. B. 960.

⁶ *Matter of Real Silk Hosiery Mills, Inc.*, 54 N. L. R. B. 399.

changes in the status of employees, or effectively recommend such action; and

(2) All employees of the Company in its steel stores department and its forge shop, excluding clerical employees and the liaison man in the steel stores department, janitors, sweepers, and the safety inspector in the forge shop, 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.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has 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 Ladish Drop Forge Company, Cudahy, Wisconsin, 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 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 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 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 elections, to determine whether or not they desire to be represented jointly by International Brotherhood of Blacksmiths, Drop Forgers & Helpers, and International Association of Machinists, both affiliated with the American Federation of Labor, for the purposes of collective bargaining.

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