

In the Matter of SHARTLE BROTHERS MACHINE COMPANY and INTERNATIONAL ASSOCIATION OF MACHINISTS

Case No. 9-R-1494.—Decided August 23, 1944

Messrs. Homer D. Martindale and Elliott D. Levy, of Middletown, Ohio, for the Company.

Mr. Carl Cederquist, of Cincinnati, Ohio, for the Union.

Miss Frances Lopinsky, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Association of Machinists, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Shartle Brothers Machine Company, Middletown, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Benjamin E. Cook, Trial Examiner. Said hearing was held at Middletown, Ohio, on July 7, 1944. The Company and the Union appeared, participated and 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 Company moved the dismissal of the petition on the ground that an unfair labor practice charge filed by the Union is presently pending before the Board, and for the further reason that the Union amended its petition at the hearing. The Union has waived its right to assert any ground set forth in the said charge as a basis for protest of any election which might be directed herein. There is no merit whatsoever in the second reason given for the motion. Accordingly, we hereby deny the said motion. 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:

57 N. L. R. B., No. 251.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Shartle Brothers Machine Company, an Ohio corporation, is a subdivision of the Black Clawson Company of Hamilton, Ohio. At its plant in Middletown, Ohio, the Company manufactures propulsion equipment for the armed forces. Within the 1-year period preceding the hearing, raw materials of a value in excess of \$100,000, were shipped to the Company's plant from points outside the State of Ohio. During the same period, finished products of a value in excess of \$200,000 were shipped from the Company's plant to points outside the State of Ohio.

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

II. THE ORGANIZATION INVOLVED

International Association of Machinists, 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 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

The Union requests a unit consisting of all production and maintenance employees of the Company, excluding all executives, engineering department employees, office clerical employees, plant protection employees, pattern making department employees, timekeepers, expeditors, factory clerks, janitresses, truck drivers and supervisory employees. The Company contends that inasmuch as its operations are

¹ The Field Examiner reported that the Union submitted 173 authorization cards, all of which bore apparently genuine original signatures, that the names of 162 persons appearing on the cards were listed on the Company's pay roll of July 4, 1944, which contained the names of 283 employees in the appropriate unit; and that 168 of the cards were dated in the months of February through June 1944; 5 being undated. The Company insisted that employees in the armed services should be considered as being contained in the appropriate unit for purposes of evaluating this report. We find no merit in the contention.

highly integrated, all employees except executives and supervisory employees should be included in the unit.

All the Company's employees are housed under one roof. *Office employees*, including *engineering department employees*, are salaried employees who are not required to punch a time clock. They receive a 2-week vacation. With the exception of supervisory employees, employees in the plant are hourly paid, are required to punch a time clock, and receive a 1-week vacation. Office employees and plant employees are divided for purposes of supervision. The former fall into the "white-collar" class of workers; the latter are manual workers. In accordance with our usual practice we shall not combine these two types of employees in a single unit for the purposes of collective bargaining.²

Plant clericals, however, work out in the plant under supervision of the plant superintendent. They are hourly paid employees and receive the 1-week vacation accorded the manual workers. Since, in our opinion, the interests of plant clericals and production and maintenance employees are closely allied, we shall include plant clericals within the unit.

There are two types of *expeditors* employed by the Company. "Inside" expeditors check on the movement of material within the plant. They are hourly paid employees and their duties are similar to those of plant clericals. We shall include "inside" expeditors in the appropriate unit. "Outside" expeditors are salaried employees and receive the same benefits as office employees. Their time is spent in expediting work being done by subcontractors. They, therefore, have no contract with the production and maintenance employees of the Company. We shall exclude "outside" expeditors from the unit.

There are also two types of *timekeepers* employed at the Company's plant. Two timekeepers collect time by going from machine to machine. They work under the immediate supervision of the premium study director who is considered a "plant" rather than an "office" supervisor. Other timekeepers work exclusively in the Company's office computing time from the records made by both time collectors. The timekeepers who do the computing are clearly office workers and we shall exclude them as such from the unit.³ The duties of the time collectors are similar to those of plant clericals and we shall include them as such in the unit.

The work of the *janitresses* is confined to the offices and the women's rest room. There is no community of interest between them and the employees within the appropriate unit. We shall, therefore, exclude them.

² See *Matter of Boston Edison Company*, 51 N. L. R. B. 118.

³ We shall hereinafter refer only to this group as timekeepers.

The Union would exclude employees of the *pattern making department* and *truck drivers* for the reason that they comprise defined craft groups which are usually represented by affiliates of the Union. Patterns Makers League of North America has requested recognition from the Company as exclusive representative of the employees of the pattern making department. We shall exclude these employees and the truck drivers from the appropriate unit herein.

A number of the Company's employees act as *assistant foremen* and *leaders*. Leaders work along with the men and direct their work. They have no disciplinary authority. Both parties agree that they should be included in the unit and we shall provide for their inclusion. Assistant foremen are regular production and maintenance employees who, in the absence of a foreman, are in charge of a group of employees who regularly work a 12-hour shift. Since the foremen work only the 8-hour shifts, 7 a. m. to 5 p. m. and 5 p. m. to 3 a. m., there is a daily period of 4 hours during which the assistant foremen are in charge. These employees receive no extra pay for supervision. The Company testified without denial that they have no authority to hire, promote, discharge, discipline or make effective recommendations concerning the change in status of employees who work with them. However, since assistant foremen regularly assume the position of foremen without immediate supervision, it is apparent that they are vested with sufficient supervisory authority to enable them to perform their function. Accordingly, we find that assistant foremen are supervisory employees and shall exclude them from the unit.

The Company's plant protection force consists of two *guards* and a *watchman*. The guards at one time were militarized, uniformed and armed. While they still wear uniforms, they are no longer armed or militarized. The watchman performs the ordinary functions of a watchman. These employees work in the plant; their contacts are with the production and maintenance employees. Since their working conditions are similar to those of the employees within the unit, their interests can be adequately represented with them in the same unit for collective bargaining. Accordingly, we shall include plant protection employees in the appropriate unit.⁴

We find that all production and maintenance employees of the Company, including leaders, plant clerical employees "inside" expeditors, time collectors and plant protection employees, but excluding executives, engineering department employees, office clerical employees, pattern making department employees, timekeepers, "outside" expeditors, janitresses, truck drivers, assistant foremen and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recom-

⁴ See *Matter of Coin Products Refining Company*, 56 N. L. R. B. 1140.

mend 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

The Company insists that its employees in the armed services be allowed to participate in the election by voting through the mails. In accordance with out established practice, and for reasons many times set forth in our decisions, we shall provide that only persons who present themselves at the polls may vote in the election.⁵

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in 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 Shartle Brothers Machine Company, Middletown, Ohio, 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 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 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 International Association of Machinists, A. F. of L., for the purposes of collective bargaining.

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

⁵ See *Matter of Wilson & Co Inc.*, 37 N. L. R. B. 944; *Matter of Mine Safety Appliance Company, Gallery Plant*, 55 N. L. R. B. 1190.