

In the Matter of MICHIGAN STEEL TUBE PRODUCTS COMPANY and UNITED
OFFICE AND PROFESSIONAL WORKERS OF AMERICA, C. I. O., LOCAL 26

Case No. 7-R-1758.—Decided August 25, 1944

*Messrs. Beaumont, Smith & Harris, by Mr. Percy J. Donovan, of
Detroit, Mich., for the Company.*

Mr. Irving Riskin, of Detroit, Mich., for the Union.

Mr. David V. Easton, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Office and Professional Workers of America, C. I. O., Local 26, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Michigan Steel Tube Products Company, Detroit, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert J. Wiener, Trial Examiner. Said hearing was held at Detroit, Michigan, on July 20 and 21, 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. 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

Michigan Steel Tube Products Company, a Michigan corporation, is principally engaged in the manufacture of electrically welded steel tubing. For this purpose it operates two manufacturing establishments, one of which is located in Hamtramck, Michigan, and the other in Shelby, Ohio. We are concerned herein solely with the Com-

pany's operations in Hamtramck, Michigan, hereinafter referred to as the Michigan plant. During the first quarter of 1944, the Company's purchases of raw materials, consisting primarily of strip and sheet steel, totaled approximately \$400,000, of which about 64 percent was received from points outside the State of Michigan. During the same period, the Company's sales amounted to approximately \$1,250,000, of which about 47 percent represented the value of shipments to customers located outside the State of Michigan.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Office and Professional Workers of America, Local 26, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about April 11, 1944, the Union requested recognition from the Company as the exclusive bargaining representative of certain of its employees. The Company and the Union have not been able to reach an agreement since that time with respect to an appropriate collective bargaining unit.

A statement of the Regional Director, 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 seeks a unit comprised of all office, clerical, and professional employees of the Michigan plant of the Company, including the secretary to the assistant General Sales Manager, but excluding personnel department employees, industrial nurses, secretaries to officers of the Company, and supervisors (including assistant chief engineer, assistant production manager, and purchasing agent). While agreeing substantially to the propriety of the afore-mentioned unit, the Company contends that certain classifications of employees, hereinafter discussed, should be excluded from the unit on the ground

¹The Regional Director reported that the Union submitted 26 designations bearing apparently genuine original signatures of persons whose names appeared on the Company's pay roll of May 16, 1944, and that said pay roll contained the names of 72 persons within the unit claimed by the Union as appropriate.

that they are key employees whose interests are closely connected with that of management.

The chief metallurgist and analyst.—This employee is responsible for the preparation of certified tests of the physical properties of raw materials purchased, and finished products sold, by the Company. The record discloses that he is in charge of two employees, and has authority to make effective recommendations affecting the status of his subordinates. Under these circumstances we find that he is a supervisor, and shall exclude him.

The secretary to the Operations Manager.—This employee is the regular secretary, stenographer, and file clerk to the Operations Manager who, as part of his duties, supervises the work of the personnel department, and to whom the personnel manager is responsible. In the regular course of her duties this employee has access to all files in the personnel department. Because of this fact and the close relationship existing between her and the Operations Manager, we find that she is the type of confidential employee whose exclusion is warranted. Accordingly, we shall exclude her from the unit.

The secretary to the Director of Operations and Research.—This employee takes dictation from, and performs clerical duties for, the Director of Operations and Research. While she deals with matters which are confidential insofar as the business operations of the Company are concerned, the record discloses no evidence indicating that she has access to matters relating to its labor relations policies. Under these circumstances, we find that this employee is not a confidential employee, and we shall include her.

Head bookkeepers.—The Company employs two persons in this classification who perform the final work on the various fiscal statements of the Company. There is, however, no evidence that these employees exercise any supervisory authority over others in the bookkeeping department. Nor is there evidence that they have access to information relating to labor relations policies of the Company. Under these circumstances, we find they are neither supervisory nor confidential employees, and we shall include them within the unit.

Assistant to the General Sales Manager.—This employee figures the price to be asked of customers or prospective customers upon the basis of data furnished by other employees, in accordance with certain formulae set by the Company. In addition to these duties he may, on occasion, accept orders on behalf of the Company, if the details of the order coincide with the Company's usual business practices. All doubtful orders, however, must be approved by his superior. The Company contends that this employee exercises supervisory functions, since he has been called upon to make recommendations affecting the status of a stenographer whom he has been training for work in the

sales department. In the absence of evidence indicating that it is part of his regular duties to make recommendations affecting the status of employees engaged in the sales department, we find that this employee is not a supervisor. Nor do we find this employee to be a confidential employee. His work is largely routine, is subject to supervision by the heads of his department, and none of it is concerned with the labor policies of the Company. Accordingly, we shall include him within the unit.

The confidential pay-roll clerk.—This employee is engaged in the pay-roll department which makes up the pay roll and pays the employees of the Company. The Company contends that she acts in a confidential capacity since she has charge of the salaried pay roll and inasmuch as the information contained on this pay roll is not the type which the Company desires to have made public. We find no merit in this contention, and, since the duties of this employee are not in any way concerned with the labor policies of the Company, we find that she is not a confidential employee. A stronger argument in favor of the exclusion of this employee is contained in the fact that she is in charge of the pay-roll division in the absence of the paymaster. However, the record contains no specific evidence indicating that she has authority to make recommendations affecting the status of other employees in the department. Accordingly, we find that she is neither a confidential nor a supervisory employee; we shall include her within the unit.

We find that all office, clerical, and professional employees of the Michigan plant of the Company, including the secretary to the assistant General Sales Manager, the secretary to the Director of Operations and Research, the head bookkeepers, the assistant to the General Sales Manager, and the confidential pay-roll clerk, but excluding employees of the personnel department, industrial nurses, secretaries to officers of the Company, the secretary to the Operations Manager, the chief metallurgist and analyst, the assistant chief engineer, the assistant production manager, the purchasing agent, 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.

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 Elec-

tion 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 Michigan Steel Tube Products Company, Detroit, Michigan, 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 Seventh 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 United Office and Professional Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

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