

In the Matter of GOODYEAR AIRCRAFT CORPORATION *and* INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, LOCAL 856 (CIO)

Case No. 8-R-1590.—Decided August 30, 1944

Messrs. Walter E. DeBruin, and F. J. Carter, of Akron, Ohio, for the Company.

Messrs. Max W. Johnstone, and Harold W. McCoy, of Akron, Ohio, for the Union.

Mr. Philip Licari, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 856 (CIO), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Goodyear Aircraft Corporation, Akron, Ohio, herein called the Company,¹ the National Labor Relations Board provided for an appropriate hearing upon due notice before William O. Murdock, Trial Examiner. Said hearing was held at Akron, Ohio, on August 1, 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

Goodyear Aircraft Corporation, a Delaware corporation, is engaged in the manufacture of aircraft at Akron, Ohio. The Company an-

¹ At the hearing, on motion by counsel for the Union, the petition and all other formal papers in this proceeding were amended so that the name of the Company would read "Goodyear Aircraft Corporation."

nually uses raw materials valued in excess of \$5,000,000, of which 60 percent is shipped from points outside the State of Ohio. The Company annually manufactures aircraft and parts thereof valued in excess of \$10,000,000, of which 60 percent is shipped to points outside the State of Ohio.

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

II. THE ORGANIZATION INVOLVED

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 856, 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 refuses to grant recognition to the Union as the bargaining representatives of its militarized firemen on the grounds that (1) the militarized firemen are not employees within the meaning of the Act; (2) a unit of militarized firemen is inappropriate for the purposes of collective bargaining; and (3), even though a unit of militarized firemen were appropriate, the Union cannot properly represent such employees, inasmuch as it now represents the Company's production and maintenance employees.

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.²

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 composed of all the Company's militarized firemen in its plant-protection department, except the chief, the four captains and the acting captain. The Company opposes the unit sought on the grounds hereinabove stated.

The Company employs approximately 38 militarized firemen. These employees are engaged in operating and inspecting fire equipment, and in preventing and extinguishing fires in and about the Company's premises. In connection with these duties, they also paint, wash windows, and perform other maintenance work.

² The Field Examiner reported that the Union submitted 29 authorization cards, of which 28 were dated June 1944, and 1 July 1944. He further reported that there were 38 employees in the alleged appropriate unit

The appropriateness of units similar to that proposed in the instant proceeding has been considered by the Board in other cases, and the Board has rejected contentions similar to those herein advanced by the Company, determining that units comprised of militarized plant-protection personnel are appropriate for collective bargaining purposes.³

Accordingly, we find that all militarized firemen in the Company's plant-protection department at Akron, Ohio, excluding the chief, the four captains, the acting captain, 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 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 Goodyear Aircraft Corporation, Akron, 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 Eighth 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,

³ See *Matter of Consolidated Shipbuilding Corporation*, 52 N. L. R. B. 1405, and *Matter of Dravo Corporation*, 52 N. L. R. B. 322.

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 Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 856, 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.