

IN THE MATTER OF ECONOMY BALER COMPANY and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, C. I. O.

*Case No. 7-R-1801.—Decided August 31, 1944*

*Mr. G. F. Killeen*, of Lansing, Mich., for the Company.  
*Mr. W. A. Magnor*, of Ann Arbor, Mich., for the C. I. O.  
*Mr. Cuyler Coleman*, of Detroit, Mich., for the Craftsmen.  
*Mr. Seymour J. Spelman*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Local 38, International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Economy Baler Company, Ann Arbor, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Cecil Pearl, Trial Examiner. Said hearing was held at Ann Arbor, Michigan, on August 1, 1944. The Company, the C. I. O., and Michigan Metal Craftsmen, Local 29, affiliated with Michigan Council for Independent Unions, herein called the Craftsmen, 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

Economy Baler Company, a Michigan corporation, is engaged in the manufacture of baling presses at a plant in Ann Arbor, Michigan.

57 N. L. R. B., No. 301.

During the year 1943, the Company purchased raw materials valued at approximately \$500,000, of which 75 percent was shipped from sources outside the State of Michigan. During the same year, the Company sold finished products valued at approximately \$1,125,000, of which at least 75 percent was shipped to points outside the State of Michigan.

The Company concedes, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

Local 38, International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Michigan Metal Craftsmen, Local 29, affiliated with the Michigan Council for Independent Unions, 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 C. I. O. as the exclusive bargaining representative of its employees until the C. I. O. has been certified by the Board in an appropriate unit.

A statement of the Trial Examiner, made at the hearing, indicates that the C. I. O. and the Craftsmen each represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup>

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

All parties are in general agreement that the appropriate unit should consist of all production and maintenance employees, including watchmen, but excluding office, clerical, and supervisory employees. However, the C. I. O. and the Company are in disagreement with respect to the following employees:

*Four alleged supervisors:* The C. I. O. contends that the supervisors of the welding department, the subassembly department, the lay-out

<sup>1</sup> The Trial Examiner reported that the C. I. O. submitted 46 authorization cards, 34 of which bore apparently genuine original signatures, that the names of 37 persons appearing on the cards were listed on the Company's pay roll of July 31, 1944, which contained the names of 77 employees in the appropriate unit; and that the cards were dated from April through July 1944.

The Craftsmen submitted 23 cards, 22 of which bore apparently genuine original signatures. The names of 22 persons appearing on the cards were contained in the aforesaid pay roll. The cards were dated in July 1944.

department, and the semi-finish stockroom should be excluded from the unit as supervisory employees. The Company maintains that, notwithstanding their title, these four employees exercise no supervisory authority, and should be included in the unit as production and maintenance employees. The Craftsmen took no position on this issue.

The record discloses that each of the four employees in question spends 90 percent of his time performing the same type of manual work as the other employees in his department. The remaining 10 percent of his time is spent in instructing, in clerical duties, and in transmitting orders from the foreman to the other employees. He is paid on an hourly basis, at a rate slightly higher than the other employees in his department. He has no authority to hire, discharge, discipline, or to recommend changes in the status of any employee. Like the other employees in his department, he is under the supervision of a foreman. It is clear, from the evidence, that these four employees are not supervisors within the meaning of our definition. Their principal duties characterize them as production and maintenance employees, and we shall include them in the unit as such.

*Inspectors:* The Company employs one person who spends 10 to 20 percent of his time as an inspector in the assembly department. The balance of his time is spent in clerical work in an office of the production department, where he prepares orders for parts. He is paid a weekly salary and is under the direct supervision of the plant superintendent. The C. I. O. seeks to include him in the unit, while the Company is opposed. Inasmuch as all office and clerical employees are excluded from the unit by agreement, we shall exclude the part-time inspector since his work is principally clerical in nature.

We find that all production and maintenance employees at the Company's Ann Arbor plant, including watchmen, but excluding the part-time inspector, office and clerical employees, 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 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 payroll 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 Economy Baler Company, Ann Arbor, 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 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 they desire to be represented by Local 38, International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, C. I. O., of Michigan Metal Craftsmen, Local 29, affiliated with the Michigan Council for Independent Unions, for the purposes of collective bargaining, or by neither.

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