

In the Matter of FIRESAFE BUILDERS PRODUCTS CORP. and INDUSTRIAL
TRADES UNION OF AMERICA

Case No. 1-R-1997.—Decided August 31, 1944

Mr. John G. Coffey, of Cranston, R. I., for the Company.

Mr. Sidney S. Grant, of Boston, Mass., for the ITU.

Mr. E. F. Edwards, of Providence, R. I., for the Council.

Miss Frances Lopinsky, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Industrial Trades Union of America, herein called the ITU, alleging that a question affecting commerce had arisen concerning the representation of employees of Firesafe Builders Products Corp., Cranston, Rhode Island, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis Cokin, Trial Examiner. Said hearing was held at Providence, Rhode Island, on August, 7, 1944. The Company, the ITU, and Allied Building Trades Council of Rhode Island (AFL),¹ herein called the Council, 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:

¹ The Council is made up of the following affiliates of the American Federation of Labor all of which were served with Notice of Hearing: International Association of Bridge, Structural and Ornamental Iron Workers, Local Unions Nos. 523 and 37; International Brotherhood of Electrical Workers of America, Local Union No. 99; Local 57, International Union of Operating Engineers; Providence, Pawtucket, and Central Falls Carpenters District Council; Brotherhood of Painters, Decorators and Paper Hangers of America, Local Union No 195, and International Hod Carriers', Building and Common Laborers' Union of America

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Firesafe Builders Products Corp., a Rhode Island corporation, is engaged at its plant in Cranston, Rhode Island, in the manufacture of pontoons, pontoon gears, ship masts, bow doors, and other fittings for LST craft. Almost all the raw materials used by the Company are shipped to it from points outside the State of Rhode Island. During the 6 months preceding the date of the hearing, the Company sold products valued in excess of \$1,000,000, practically all of which were shipped either to Davisville, Rhode Island, or to the Bethlehem-Hingham Shipyard at Hingham, Massachusetts. All of its products are for the ultimate use of the United States Navy.

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

II. THE ORGANIZATIONS INVOLVED

Industrial Trades Union of America, unaffiliated, is a labor organization admitting to membership employees of the Company. Allied Building Trades Council of Rhode Island, affiliated with the American Federation of Labor, is a labor organization admitting to membership in its constituent unions employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On June 29, 1944, the ITU requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused to recognize the ITU on the ground that it was operating under contracts with various members of the Council. The Company has recognized the International Association of Bridge, Structural and Ornamental Iron Workers, herein called the Iron Workers, a member of the Council, as exclusive representative of certain of its employees since 1942, and has required all persons subject to the jurisdiction of the Iron Workers to be members of that organization. In addition, the Company has had oral understandings with other craft groups which are members of the Council. The agreement with the Iron Workers has no termination date. It provides for nothing more than recognition, containing no substantive provisions with respect to wages, hours, or working conditions. It, therefore, does not preclude a present determination of representatives.² It is also clear that the oral understandings do not serve to bar this proceeding.³

Despite a contention of the Council to the contrary, we find that a statement of a Board agent, introduced into evidence at the hearing,

² See *Matter of Corn Products Refining Company*, 52 N. L. R. B. 1324.

³ See *Matter of Eicor, Inc.*, 46 N. L. R. B. 1035.

indicates that the ITU represents a substantial number of employees in the unit hereinafter found appropriate.⁴

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 ITU requests a unit of all employees of the Company, excluding office and clerical employees, guards, supervisory employees, and electricians. The Council agrees with the scope of the unit, but requests that electricians, supervisors, and foremen be included therein. The Company takes no position with respect to the unit.⁵

The electricians are employed by an independent contractor with whom the Company has a contract for electrical maintenance work. Although they perform their work under the supervision of employees of the Company, these electricians are not carried on the pay roll of the Company. The Company has no authority to hire or discharge them. Their rates of pay are set by the independent contractor. The Council has never attempted to present grievances to the Company on their behalf. In view of all of these circumstances, we shall exclude electricians from the unit.

We find that all employees of the Company, excluding office and clerical employees, guards, electricians, supervisors, foremen 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

The Council questions the right of welder trainees to vote in the election. The ITU contends that these trainees should be declared eligible to vote. The Company takes no position on this issue. The trainees go through a training period of 5 days to 3 weeks during which time they are considered by the Company, in all respects, as

⁴ The Field Examiner reported that the ITU submitted 139 authorization cards; that the names of 98 persons appearing on the cards were listed on the Company's pay roll of July 17, 1944, which contained the names of approximately 300 employees in the appropriate unit, and that the cards were dated in June 1944.

The Council relies upon its contracts to establish its interest in the proceeding.

⁵ Although the Company took no position as to the appropriateness of the unit, it requested the Board to take into consideration the fact that its operations require a great deal of contact between its employees and employees engaged elsewhere who are traditionally organized by affiliates of the American Federation of Labor, arguing that certification of the ITU may lead to conflict. The Council, in its brief, advanced this argument in support of its contention that the petition should be dismissed. We find little merit in the contention. See *Matter of Indiana Bridge Company, Inc.*, 57 N L R B 681.

employees. A substantial majority of them become permanent employees of the Company. We are of the opinion that the trainees are eligible to vote in the election hereinafter directed, since they have a sufficient interest in the working conditions in the plant to warrant their participation in the choice of a bargaining representative.

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.⁶

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 Firesafe Building Products Corp., Cranston, Rhode Island, 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 First 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 any 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 I. T. U., or by Providence Allied Building Trades Council, of the A. F. of L., 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.

⁶The ITU requests that it be designated on the ballot as "I. T. U." The Council requests that it be designated as "Providence Allied Building Trades Council, of the A. F. of L." The requests are hereby granted.