

In the Matter of SERVEL, INC. and UNITED ELECTRICAL, RADIO AND
MACHINE WORKERS OF AMERICA, CIO

Case No. 14-R-984.—Decided September 1, 1944

Mr. Isador Kahn, of Evansville, Ind., for the Company.

Mr. William Senter, of St. Louis, Mo., for the Union.

Miss Frances Lopinsky, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by United Electrical, Radio and Machine Workers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Servel, Inc., Evansville, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Helen F. Humphrey, Trial Examiner. Said hearing was held at Evansville, Indiana, on August 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. 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

Servel, Inc., is a Delaware corporation with its principal place of business at Evansville, Indiana, where it is engaged in the sale, manufacture, and distribution of military supplies, including airplane wings, airplane engine cylinder heads, cartridge cases, electric refrigeration machines and air conditioning equipment. For use at its Evansville plants, the Company annually purchases raw materials

valued in excess of \$1,000,000, from points outside the State of Indiana. The Company annually ships finished products of a value in excess of \$1,000,000 from its Evansville plant to points outside the State of Indiana.

We find that the operations of the Company affect commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Electrical, Radio and Machine Workers of America, 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 has refused to grant recognition to the Union as the exclusive bargaining representative of its production and maintenance 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 parties are in agreement that all production and maintenance employees in the Company's Evansville plants, including tool-crib attendants, but excluding all administrative employees, office clerical employees, employees in the foundry division other than in the pattern shop,² electrical maintenance employees,³ powerhouse employees,⁴

¹ The Field Examiner reported that the Union submitted 2,761 authorization cards dated : 1 in 1939, 13 in 1941, 589 in 1942, 826 in 1943, 997 in 1944, 1 incorrectly dated, 250 incompletely dated, 84 undated ; that there are 5,628 employees in the alleged appropriate unit. The Company contends that, inasmuch as only a part of the cards are current, and since the report shows no comparison with the Company's pay roll, the showing made by the Union is insufficient to warrant a present investigation and determination of representatives. We find no merit in this contention. The submission of cards by a petitioning union is an administrative expedient by which the Board determines whether or not a petition warrants further investigation. No unalterable rules govern the sufficiency of the showing thus made. We are of the opinion that, in the instant case, the Union has satisfied our requirement. Cf. *Matter of Buffalo Arms, Corp.*, 3-R-813, 57 N. L. R. B. 1560.

² The employees of the foundry division other than those in the pattern shop were found by the Board to be a separate unit in *Matter of Servel, Inc.*, 48 N. L. R. B. 712.

³ These employees also constitute a separate unit. See *Matter of Servel, Inc.*, 51 N. L. R. B. 224.

⁴ These employees also comprise a separate unit. See *Matter of Servel, Inc.*, 51 N. L. R. B. 224.

plant-protection employees, training school instructors and trainees, material control clerks in the Production Division, group leaders, and other supervisory employees, constitute a unit appropriate for bargaining. The parties are in dispute concerning the inclusion in the unit of the following categories of employees, all of whom, with exception of salaried shop clerical employees, the Company would include and the Union would exclude:

Factory clericals: The Company's operations are carried on by Divisions, each of which is divided into Departments. Each production and maintenance department is composed of manual workers and the necessary clerical employees and supervisors to carry on the work of the department. There are 125 to 150 shop clerks who are employed throughout the plant in the departments, from 1 to 3 to a department. They work under the supervision of the heads of the various departments to which they are assigned. They perform the functions of office boys, run errands for the foremen, carry blueprints, check time cards and absentees and do whatever other work is assigned them as aides of the supervisory staff of the department. Some of these clerks are hourly paid; others are salaried employees. The Company would include hourly paid shop clerks in the unit, but would exclude salaried ones.⁵ Since the only difference between salaried and hourly paid shop clerks, according to the record, is the fact that the former work in the larger departments for supervisors who bear greater responsibility, we perceive no basis for separating hourly paid from salaried shop clerks for purposes of collective bargaining. In our opinion, the interests of all shop clerks, who are stationed in the plant offices, who work under the same supervision as production and maintenance employees, and who are in daily contact with those employees, are sufficiently similar to those of the production and maintenance employees to warrant bargaining for both groups of employees in a single unit. We shall, therefore, include salaried and hourly paid shop clerks in the appropriate unit.

Other categories of clerical employees working within the plant include dispatchers, dispatcher clerks, stock chasers, material control clerks, receiving clerks, inventory clerks, stock handlers, craters, boxers, order fillers, and store attendants. The material control clerks in the Machining Division order and schedule stock, figure material requirements, instruct the Purchasing Department what materials are required, and follow up the orders. They work in an office in the factory and their work and working conditions are similar to those of material control clerks in the Production Department who, the parties agree, are office clerical employees. We shall exclude from the unit material control clerks wherever stationed. Dispatchers, dis-

⁵ The Union would exclude the salaried as well as the non-salaried shop clerks.

patcher clerks, stock chasers, receiving clerks, inventory clerks, stock handlers, craters, boxers, order fillers and store attendants perform work which requires daily contact with employees on the production floor. They are therefore, vitally affected by working conditions in the plant and we shall include them in the unit.⁶

Process control employees: These employees prepare plant lay-out plans for the shop engineers and determine the placement and moving of equipment. They are technicians whose duty it is to determine how production should proceed efficiently and develop new ways to attain this goal. Some of these employees are graduate engineers; others have had considerable training or experience in this type of work. Since, in our opinion, the interests of technical employees vary from those of production and maintenance employees, we shall exclude process control employees from the unit.⁷

Tool designers: Tool designers are highly skilled workmen, requiring from 5 to 10 years training in the making of tools and dies, and the ability to draft. Their work bears the same relationship to that of tool makers as the work of engineers bears to that of production and maintenance employees. In view of the technical nature of their work, we shall exclude tool designers from the unit.⁸

Engineering Division: The engineering division is divided into several departments, some of which employ production and maintenance employees. The operations of these departments are experimental and the work of the production and maintenance employees therein is in direct aid of highly trained technicians who conduct the experiments. The nature of the work being performed and the relationship between technicians and manual workers performing it indicate that they do not share the interests of employees of the balance of the plant. We shall, therefore, exclude all employees of the engineering division from the unit.⁹

Department 99, General: This department includes administrative and clerical employees who work in the Company's offices, whom the parties agree to exclude from the unit. It includes also a group of miscellaneous employees such as chauffeurs, car washers and car repairers who drive and service cars owned by the Company and its employees. Although these employees do not take part in the production process of the Company, their work, and, therefore, their in-

⁶ See *Matter of Proximity Manufacturing Company*, 56 N. L. R. B. 264.

It is apparent from the classifications given these employees that some perform manual work. The work of store attendants is very similar to that of tool crib attendants whom both parties agree to include. The Union also would include all stock handlers except those in the service stores. We perceive no ground for differentiation.

⁷ See *Matter of Indianapolis Power & Light Company*, 51 N. L. R. B. 670.

⁸ See *Matter of Bendix Aviation Corp.*, 56 N. L. R. B. 1805.

⁹ See *Matter of U. S. Rubber Company*, 56 N. L. R. B. 1328.

terests; are similar to those of production and maintenance employees. We shall, therefore, include them in the unit.

Employee services: The Company maintains a separate department for employee services. This department, under separate supervision, includes 51 employees consisting of recreation employees, employees who constitute the various rationing boards, and employees who operate the various enterprises of Servel Employees' Association which include soft drink stands and cigarette machines. In our opinion, the interests of the employees of the department are not akin to those of production and maintenance employees. Accordingly, we shall exclude them from the unit.

Receiving inspection employees: The Union would include inspectors of materials produced by the plant, but would exclude inspectors of materials received by the plant. Since we perceive no valid ground of differentiation, and since inspectors are closely allied with production and maintenance employees, we shall include all inspectors in the appropriate unit.

Cafeteria employees: These employees perform the usual functions of cafeteria employees. They work in the main cafeteria, which is centrally located, and at feeding stations located throughout the plant. Since the sole labor organization involved does not seek to represent them, and their duties and interests are not similar to those of production and maintenance employees, we shall exclude them from the unit.

We find that all production and maintenance employees of the Company at its Evansville, Indiana, plants, including hourly paid and salaried shop clerks, dispatchers, dispatcher clerks, stock chasers, receiving clerks, inventory clerks, stock handlers, craters, boxers, tool crib and store attendants, chauffeurs, car washers, car repairers and inspectors, but excluding all administrative, office clerical, and technical employees, process control employees, material control clerks wherever stationed, employees of the Employee Services Department, and of the Engineering Division, cafeteria employees, tool designers, foundry division employees other than those in the pattern shop, electrical maintenance, powerhouse, and plant-protection employees, training school instructors and trainees, group leaders 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 employees of the Company who are laid off, or are transferred from one department to another, retain seniority for 6 months in the department in which they were working prior to the lay-off or transfer. Many employees have recently been transferred from the foundry into departments within the appropriate unit, and employees who were employed in departments within the appropriate unit have been laid off. The Company contemplates expansion of its foundry in the near future and states that all employees with foundry seniority presently working in departments within the appropriate unit may return to the foundry if they desire. It contends that transferees with foundry seniority are part of the foundry unit and should not be eligible to vote in the election. The Union contends that these employees, as well as all laid-off employees who retain seniority in departments within the unit, should be allowed to participate in the election. The length of time which the transferees from the foundry will remain in the departments within the unit is indefinite. Their return to the foundry is contingent not only upon the expansion of the foundry but also upon their desires. Consequently, we are of the opinion that they have a sufficient interest to warrant their participation in the election hereinafter directed. Employees who have been laid off, but who retain seniority in departments within the appropriate unit, are likewise eligible to vote in the election hereinafter directed because, by reason of the fluctuating needs of the Company for employees, they have a reasonable expectation of being reemployed, and are, in our view, employees of the Company, temporarily laid off.¹⁰

The Company insists that its employees now in the armed services be allowed to vote by mail. However, for reasons stated in the *Mine Safety Appliance* case,¹¹ we shall provide that only persons in the armed forces who present themselves at the polls may vote in the election.

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.¹²

¹⁰ However, any persons on the seniority list who have refused offers of reemployment have thereby terminated their employee status. Such persons shall not be eligible to vote. See *Matter of Schafter Brothers Logging Company*, 23 N. L. R. B. 1104; and *Matter of Serval, Inc.*, 35 N. L. R. B. 733

¹¹ See *Matter of Mine Safety Appliance Company, Callery Plant*, 55 N. L. R. B. 1190.

¹² The Union requests that its name appear on the ballot as "UE-CIO." The request is hereby granted.

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 Servel, Inc., Evansville, Indiana, 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 Fourteenth 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, and the determinations made in Section V, above, 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 or not they desire to be represented by UE-CIO for the purpose of collective bargaining.

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