

In the Matter of ALUMINUM COMPANY OF AMERICA and ALUMINUM
WORKERS OF AMERICA, C. I. O.

Case No. 19-R-1330.—Decided September 4, 1944

Mr. Charles A. Hart, of Portland, Oreg., for the Company.

*Messrs. A. F. Hartung and James Menzie, of Portland, Oreg., for the
CIO.*

Mr. Edwin D. Hicks, of Portland, Oreg., for the AFL.

Mr. Bernard Goldberg, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by Aluminum Workers of America, C. I. O., herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Aluminum Company of America, Vancouver, Washington, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John E. Hedrick, Trial Examiner. Said hearing was held at Portland, Oregon, on July 24, 1944. The Company, the CIO, and Aluminum Trades Council of Vancouver, Washington, A. F. L., herein called the AFL, 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

Aluminum Company of America, a Pennsylvania corporation, is engaged in the manufacture of virgin pig and ingot aluminum at its plant in Vancouver, Washington, the only establishment of the Com-

pany involved in this proceeding. The Company annually uses approximately 200,000,000 pounds of raw materials in its manufacturing processes at the Vancouver plant, substantially all of which is shipped to the plant from points outside the State of Washington. During the same period the Company produces about 200,000,000 pounds of its manufactured products, two-thirds of which is sent to finishing plants outside the State of Washington.

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

II. THE ORGANIZATIONS INVOLVED

Aluminum Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Aluminum Trades Council of Vancouver, Washington, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE ALLEGED QUESTION CONCERNING REPRESENTATION

As the result of a cross-check following the filing of a petition with the Board, the Company recognized the AFL as the bargaining representative of its production and maintenance employees and executed a contract with the AFL on December 3, 1941, covering such employees. The contract was to remain in effect until June 1, 1942, and from year to year thereafter unless either party served notice of a desire for revision at least 60 days prior to any anniversary date. The AFL notified the Company of its desire to secure a revision in the terms of the contract at least 60 days prior to June 1, 1942. In due time the CIO apprised the Company of its claim to represent a majority of the production and maintenance employees and filed a petition with the Board. Pursuant thereto, the Board ordered an election to determine the bargaining representative, if any, desired by the Company's employees.¹ The AFL won the election and was certified by the Board on November 30, 1942, as the bargaining representative. Because of the inability of the AFL and the Company to agree on terms of a new contract, the dispute was certified to the National War Labor Board in May 1943. On June 17, 1943, a hearing on the issues was held by the Regional War Labor Board. On June 29, 1943, while the dispute was still pending before the War Labor Board, the CIO filed another petition with this Board requesting certification as the bargaining representative after the Company had refused the CIO's request for recognition. Holding that it would not effectuate the purposes of the Act to hold an election

¹ *Matter of Aluminum Company of America*, 44 N. L. R. B. 1111.

at that time, the Board ordered the CIO's petition dismissed on November 13, 1943.²

On October 27, 1943, the Regional War Labor Board rendered its decision in the matter in dispute between the Company and the AFL. Both parties were dissatisfied with the award; the AFL immediately appealed to the National War Labor Board for review of the case and the Company petitioned the Regional War Labor Board for reconsideration of its decision with respect to retroactive pay. On April 14, 1944, the National War Labor Board denied the AFL's petition for review. The Regional War Labor Board meanwhile issued a first supplementary order on December 8, 1943, and a second supplementary order on June 3, 1944, on which date the AFL and the Company also notified the Regional War Labor Board that there were no unresolved issues between the parties. On June 17, 1944, pursuant to a final order of the War Labor Board the AFL and the Company executed a contract retroactive to June 1, 1944, to expire on May 31, 1945. The CIO filed its petition in the instant case on April 17, 1944.

The principal ground for the decision of the Board dismissing the CIO's previous petition was that through no fault of either the AFL or the Company and as the direct result of the submission of matters in dispute to the War Labor Board, the AFL had been unable to secure a contract, a benefit which it was entitled a reasonable opportunity to obtain for the employees as the result of its certification as exclusive bargaining representative. The opportunity to obtain a contract clearly carried the implication that the contract when executed shall be enjoyed for a reasonable period. It was thus to be inferred from the Board's previous decision that when the War Labor Board finally disposed of the pending dispute, the AFL would be able to insure to the employees the contractual benefits thus derived for the term of 1 year. This the AFL has not, as yet, been able to do. Nor was evidence adduced to show that the AFL had been dilatory in the proceedings before the War Labor Board or in thereafter completing the contract once those proceedings had terminated. Accordingly, we find that no question has arisen concerning the representation of employees of the Company and we shall dismiss the petition herein, without prejudice to the CIO's right to file another petition a reasonable time prior to May 31, 1945, the date on which the present contract between the AFL and the Company expires.

ORDER

Upon the basis of the foregoing findings of fact and upon the entire record in the case, the National Labor Relations Board hereby orders

² *Matter of Aluminum Company of America*, 53 N. L. R. B. 593.

that the petition for the investigation and certification of representatives of employees of Aluminum Company of America, Vancouver, Washington, filed by Aluminum Workers of America, affiliated with the Congress of Industrial Organizations, be, and it hereby is, dismissed.

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