

In the Matter of ALADDIN INDUSTRIES, INC. and AMERICAN FLINT GLASS WORKERS UNION OF NORTH AMERICA, AFFILIATED WITH THE AMERICAN FEDERATION OF LABOR

Case No. 9-R-1406.—Decided September 4, 1944

Mr. W. H. F. Miller, of Waynesville, N. C., for the Company.

Mr. Harry F. Burgess, of Alexandria, Ind., for the Glass Workers.

Mr. Walter Bennett, of Kokomo, Ind., for the Metal Polishers.

Mr. D. L. Zinn, of Indianapolis, Ind., for the U. E.

Mr. Ben Grodsky, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by American Flint Glass Workers Union of North America, affiliated with the American Federation of Labor, herein called the Glass Workers, alleging that a question affecting commerce had arisen concerning the representation of employees of Aladdin Industries, Inc., herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before James A. Shaw, Trial Examiner. Said hearing was held at Alexandria, Indiana, on August 2, 1944. The Company, the Glass Workers, Metal Polishers, Buffers, Platers and Helpers International Union, Local No. 52, herein called the Metal Polishers, and United Electrical, Radio and Machine Workers of America, C. I. O., herein called the U. E., 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

Aladdin Industries, Inc., is an Illinois corporation having its principal office and place of business in Chicago, Illinois, and operating its
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plant at Alexandria, Indiana. The Company is engaged in the business of manufacturing and selling mantle lamps, electric lamps, lamp accessories, lamp shades, vacuum bottles, and vacuum jars. The principal raw materials used by the Company are white metal, brass, silicate sand, cotton, silk thread, ramie yarn, felspar, and chlorium nitrate. During the year 1943 the Company purchased raw materials for use at its Alexandria plant valued in excess of \$100,000, over 65 percent of which was shipped to it from points outside the State of Indiana. During the same period the Company manufactured products at its Alexandria plant valued in excess of \$100,000, over 70 percent of which was shipped to points outside the State of Indiana.

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

II. THE ORGANIZATIONS INVOLVED

American Flint Glass Workers Union of North America, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

Metal Polishers, Buffers, Platers and Helpers International Union Local No. 52, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

United Electrical, Radio and Machine Workers of America, C. I. O., affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On March 29, 1944, the Glass Workers informed the Company that it represented certain of the Company's employees at the Alexandria, Indiana, plant, and requested recognition as their exclusive bargaining agent. On April 1, 1944, the Company advised the Glass Workers that "if you represent a suitable unit we will agree to holding a representative election by National Labor Relations Board to determine bargaining rights." Subsequently the Glass Workers filed the petition in the instant proceeding.

A statement of a Board Field Examiner, introduced into evidence at the hearing, indicates that the Glass Workers represents a substantial number of employees in the unit which it claims to be appropriate.¹

¹The Field Examiner reported that the Glass Workers submitted 105 authorization cards, 98 of which bore the names of persons appearing on the Company's pay roll of April 14, 1944, which contained the names of 322 employees in the alleged appropriate unit.

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 Glass Workers contends that all production and maintenance employees of the Company employed at its Alexandria, Indiana, plant, including factory clerks,² but excluding foremen, assistant foremen, supervisors, office clerical employees, watchmen, employees working regularly in departments 4, 5, 30, and 31,³ and employees in departments 15, 16, and 17,⁴ comprise an appropriate unit. In addition, the Glass Workers has no objection to the inclusion of the draftsman and the tool and die designer.

Although the U. E. agrees generally with the Glass Workers' position, it would include office clerical employees and watchmen. It also takes a positive position with reference to the draftsman and the tool and die designer, seeking their inclusion. The Company takes no position with respect to the appropriate unit, but indicates that the draftsman and the tool and die designer are technical employees.

Office clerical employees: The office clerical employees work under the supervision of an office manager in the office, which is physically separated from the rest of the plant. There is nothing to distinguish this group from the usual type of clerical employee, nor is it demonstrated that they have a close community of interest with the production and maintenance workers. We shall exclude the office clerical employees in accordance with our usual practice.⁵

Watchmen: The record discloses that the Company employs three full-time watchmen and a substitute. The full-time watchmen are deputy marshals of the town of Aladdin, having been deputized by the chief marshal of Aladdin who is also the Company's personnel manager. They wear uniforms furnished by the Company while on duty, and two of the three carry firearms furnished by the Company. Their duties require them to observe other employees while at work, and to report infractions of company rules to the proper authorities.

and that the cards were dated as follows: 1 in January 1944; 86 in March 1944; and 11 in April 1944.

The U. E. submitted 80 cards, of which 78 bore the names of persons appearing on the aforesaid pay roll. The cards were dated as follows: 1 in February 1944; 62 in March 1944; and 15 in April 1944.

² The record discloses that there are three factory clerks

³ As the result of a consent election held under the auspices of the Board about February 18, 1944, the U. E. is the present representative of employees working regularly in departments 4, 5, 30, and 31. *Matter of Aladdin Industries, Inc.*, Case No. 9-R-1345.

⁴ The Metal Polishers, currently representing the employees in departments 15, 16, and 17 by virtue of a written collective agreement entered into with the Company on March 13, 1941, appeared in this proceeding for the sole purpose of excluding such employees from any unit found by the Board to be appropriate.

⁵ *Matter of Sharp and Dohme, Inc.*, 56 N. L. R. B. 1471

They have also made arrests of employees in the plant for such crimes as theft. We shall exclude watchmen from the unit.⁶

The draftsman and the tool and die designer: These two employees work in a room separate from the production employees. They are technical personnel and, as such, their skill, training, and duties are essentially different from those of the production and maintenance employees. We shall exclude these employees.⁷

The Company, without comment, calls attention to certain employees, concerning whom neither labor organization takes a position. These are the factory nurse, a production chemist, and an experimental employee. It is clear from the record that the production chemist and the experimental employee are technical employees. The problems arising from the nature of their work and the work of the factory nurse are dissimilar from those of the production and maintenance workers. Accordingly, we shall exclude these employees.⁸

We find that all production and maintenance employees of the Company employed at its Alexandria, Indiana, plant, including factory clerks, but excluding office clerical employees, watchmen, the draftsman, the tool and die designer, the factory nurse, the production chemist, and the experimental employee, employees working regularly in departments 4, 5, 30, and 31, and employees in departments 15, 16, and 17, foremen, assistant foremen, supervisors, 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.

At the hearing the Company raised a question regarding the eligibility of certain part-time employees to vote at the election. These employees work for other employers in the locality on a full-time basis, but they work regularly for the Company 4 or more hours per day. Neither of the contending unions raised any objection to the eligibility

⁶ See *Matter of American Armament Corporation*, 43 N. L. R. B. 834.

⁷ See *Matter of Commercial Solvents Corp.*, 45 N. L. R. B. 141.

⁸ Excluding nurses: *Matter of Canon Mfg Corporation*, 46 N. L. R. B. 592; chemists: *Matter of Indian Refining Co.*, 44 N. L. R. B. 774; experimental employees. *Matter of John Deere Harvester Works*, 44 N. L. R. B. 335.

of these employees. In our opinion these employees perform a sufficient amount of work similar to that performed by the other employees in the unit to give them a substantial interest in the conditions of employment in the Company's plant. We therefore find that they are eligible to vote.⁹

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 Aladdin Industries, Inc., Alexandria, 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 Ninth 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 American Flint Glass Workers Union of North America, affiliated with the American Federation of Labor, or by United Electrical, Radio and Machine Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining, or by neither.

⁹ *Matter of Grays Harbor Pre-Fab Company*, 52 N. L. R. B. 799.