

In the Matter of HERMAN PNEUMATIC MACHINE CO. and UNITED
STEELWORKERS OF AMERICA, C. I. O.

Case No. 6-R-996.—Decided September 6, 1944

Mr. Thomas Kaveny, Jr., of Pittsburgh, Pa., for the Company.

Mr. G. Harold Grossman, of Tarentum, Pa., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Steelworkers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Herman Pneumatic Machine Co., Zelienople, Pennsylvania, herein called the Company, the National Labor Relation Board provided for an appropriate hearing upon due notice before W. G. Stuart Sherman, Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on August 9, 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 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

Herman Pneumatic Machine Co. is a Pennsylvania corporation with its principal place of business at Zelienople, Pennsylvania, where it is engaged in the manufacture, distribution, and sale of foundry equipment. During 1943 the Company purchased raw materials valued at about \$416,000, approximately 50 percent of which was shipped to it from points outside the State of Pennsylvania. During the same

period the Company sold products valued at approximately \$1,000,000, about 85 percent of which was shipped to points outside the State of Pennsylvania.

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

II. THE ORGANIZATION INVOLVED

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

III. THE QUESTION CONCERNING REPRESENTATION

On June 22, 1944, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company refused this request.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be 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 Union urges that all production and maintenance employees of the Company, including watchmen, but excluding office and clerical employees and supervisory employees, constitute an appropriate unit. The only controversy with respect to the unit concerns watchmen.

The Company employs four watchmen who perform usual watchmen's duties. In addition they operate cranes and perform maintenance and janitorial functions. They are not armed, uniformed, nor sworn auxiliary military police. Under such circumstances, we shall include watchmen in the unit.

We find that all production and maintenance employees of the Company, including watchmen, but excluding 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.

¹The Field Examiner reported that the Union presented 48 membership application cards. There are approximately 49 employees in the appropriate unit.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of 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.

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 Herman Pneumatic Machine Co., Zelienople, Pennsylvania, 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 Sixth 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 of the Company 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 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 or not they desire to be represented by United Steelworkers of America, C. I. O., for the purposes of collective bargaining.