

In the Matter of RADIO CORPORATION OF AMERICA and UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, C. I. O.

In the Matter of RCA VICTOR DIVISION OF RADIO CORPORATION OF AMERICA and INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFFILIATED WITH THE A. F. L.

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Cases Nos. 9-R-1435, 9-R-1483 and 9-R-1484 respectively.—Decided September 15, 1944

Mr. J. M. Clifford, of Camden, N. J., for the Company.

Mr. Robert Kirkwood, of Indianapolis, Ind., for the U. E.

Mr. Francis O'Rourke, of Indianapolis, Ind., for the IBEW.

Mr. Robert Silagi, of counsel to the Board.

DECISION

DIRECTION OF ELECTIONS

AND

ORDER

STATEMENT OF THE CASE

Upon petitions duly filed respectively by United Electrical, Radio & Machine Workers of America, C. I. O., herein called the U. E., and by International Brotherhood of Electrical Workers, affiliated with the A. F. L., herein called the IBEW, alleging that questions affecting commerce had arisen concerning the representation of employees of RCA Victor Division of Radio Corporation of America, Bloomington, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before David Karasick, Trial Examiner. Said hearing was held at Indianapolis, Indiana, on August 9, 1944. The Company, the U. E. and the IBEW 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

RCA Victor Division is a division of Radio Corporation of America, a Delaware corporation. The parent corporation is engaged in the manufacture, sale, and distribution of radios and electronic equipment and operates several manufacturing plants in various States of the United States. This proceeding, however, is concerned solely with the plant located in Bloomington, Indiana, which is engaged largely in the assembly of electronic equipment. During the first 6 months of 1944, the Bloomington plant purchased raw materials valued at approximately \$4,000,000, of which about 80 percent was procured from sources located outside the State of Indiana. During the same period of time, the Company's finished products exceeded \$6,000,000 in value, all of which was sold to agencies of the United States Government for use in the war and was shipped to various points in the United States and foreign countries.

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

II. THE ORGANIZATIONS INVOLVED

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

International Brotherhood of Electrical Workers, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

On or about January 5, 1944, the U. E. informed the Company that it represented certain of its employees and requested recognition as their exclusive bargaining representative. On May 9, 1944, the IBEW similarly notified the Company. The Company has not recognized either union but desires the Board to determine the questions concerning representation.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the IBEW represents a substantial number of employees in the units hereinafter found appropriate.¹

¹ For Case No. 9-R-1483 the Field Examiner reported that the IBEW submitted 669 authorization cards, 610 of which bore the names of persons listed on the Company's pay

We find that questions affecting commerce have 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 UNITS

The toolroom unit

The U. E. seeks a unit composed of all toolroom employees, excluding supervisors and clerical workers. The Company and the IBEW oppose this unit, contending that a plant-wide unit is appropriate. There are 16 employees in the toolroom, 12 of whom work on the first floor and the remaining 4 work in the basement of the plant. Separate assistant foremen supervise the activities of each group. Hourly wage rates for these employees vary from 50 cents for the 2 toolcrib attendants to \$1.32 for the first-class toolmaker. There are 7 second-class machinists in the toolroom who spend as high as 95 percent of their time in the plant proper setting up machines and doing maintenance work. The 2 toolcrib attendants furnish parts to employees throughout the plant and spend about half their time supplying materials to plant employees as distinguished from those in the toolroom. Interchange of employees between the toolroom and the plant is considerable, 7 transfers having been made since the beginning of the year. The Company's policies with respect to vacations, insurance, seniority, and other benefits are uniformly applicable to all its full-time employees. With one exception, all other plants of the parent corporation are organized on a plant-wide basis. While some of the toolroom employees are more highly skilled and receive higher wage rates than other employees in the plant, the factors enumerated above persuade us that a unit limited to toolroom employees is not appropriate.

The production and maintenance unit

In Case No. 9-R-1483, the IBEW requests a plant-wide unit of production and maintenance employees of the Company. While insisting that a unit of toolroom employees is appropriate, the U. E. states

roll of June 18, 1944, which contained the names of 1,675 employees in the appropriate unit. The cards were variously dated between May and July, 1944. The U. E. submitted 197 authorization cards 122 of which bore the names of persons appearing on the aforesaid pay roll. The cards were dated between January and July 1944.

In Case No. 9-R-1484 the Field Examiner reported that the IBEW submitted 24 authorization cards 22 of which bore the names of persons appearing on the Company's pay roll of June 18, 1944, which contained the names of 54 employees in the appropriate unit. The U. E. submitted 1 card

As for Case No. 9-R-1435 the U. E. submitted 13 authorization cards 10 of which bore the names of persons appearing on the Company's pay roll of May 21, 1944, which contained the names of 16 employees within the allegedly appropriate unit. The IBEW submitted 14 authorization cards all of which bore the names of persons appearing on the aforesaid pay roll.

that should the Board differ with its position, then it will agree to a plant-wide unit and would desire to be accorded a place on the ballot. As stated above, the Company subscribes to the position of the IBEW.

Working group leaders. The parties are unable to agree upon the inclusion or exclusion of working group leaders. The IBEW would include them and the U. E. and the Company would exclude them. The record shows that there are 119 employees in that category and that they supervise the activities of groups of from 5 to 15 production employees. They receive a base rate of 66 cents per hour which is 6 to 10 cents more than the production employees receive. Working group leaders are responsible for the training, adjustment of working conditions, and direction of work of the employees under them. They spend from 20 to 50 percent of their time working on the assembly lines either for the purpose of relieving employees, substituting for absentees, or instructing employees. They are responsible to the assistant foremen in the departments in which they work and recommend to those supervisors the promotion, discharge, or discipline of their subordinates. In some instances when employees are dismissed, their releases are signed by working group leaders. We are of the opinion that working group leaders fall within our customary definition of supervisory employees and, accordingly, we shall exclude them from the unit.

In substantial accord with the agreement of the parties, we find that all production and maintenance employees, including assemblers, stock handlers, productive helpers, shippers, receivers, and packers, toolcrib attendants, machine operators, inspectors, test maintenance employees, employees engaged in repair work and solder-iron work, touch-up burners, trouble shooters, toolmakers, machinists, cleaners and sweepers, firemen, general maintenance employees including painters, electricians and carpenters, and storekeepers, but excluding junior clerks, office and clerical employees, technical engineers and draftsmen, plant-protection employees, foremen in training, working group leaders, foremen, assistant foremen and any 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.

The plant-protection unit

In Case No. 9-R-1484, the IBEW seeks a unit comprising all plant-protection employees, excluding sergeants and higher ranking officers. All parties agree that this constitutes an appropriate unit. The plant-protection employees are armed guards who were demilitarized in May 1944, but, by request of the Navy Department, were

scheduled to be militarized again sometime prior to August 21, 1944. Accordingly, we shall establish a separate unit for the plant-protection employees.

We find that all plant-protection employees of the Company but excluding sergeants and all higher ranking officers and any 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

As of the date of the hearing, the Company employed some 200 high school students who worked as assemblers during their summer vacation. The student assemblers received the same rate of pay as did the regular assemblers, however, the former were never transferred to other jobs, nor did they participate in the vacation plan or acquire seniority as do the latter, even though both groups received the same insurance benefits. The hiring of students below the age of 18 is a war-time exigency which the Company will abandon when the manpower shortage eases. Meanwhile, the Company intends to keep as many of its student assemblers employed as desire to remain. It is estimated that only 40 student assemblers will work after school hours once the fall semester starts. These employees will work 26 or 27 hours per week as against the 48-hour work week under which the Company is presently operating. Inasmuch as the majority of the student assemblers will shortly terminate their employment with the Company, it is apparent that as temporary employees they lack sufficient interest in common with the regular employees to justify their participation in the selection of a bargaining representative. As for those student assemblers who intend to continue working as regular part-time employees, we find that they are eligible to participate in the election.²

We shall direct that the questions concerning representation which have arisen be resolved by separate elections by secret ballot among the employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.³

² See *Matter of Johnson-Handley-Johnson Company and Johnson Furniture Company*, 51 N. L. R. B. 1282; *Matter of Ken-Rad Tube & Lamp Corporation*, 56 N. L. R. B. 1050; *Matter of Corn Products Refining Company*, 56 N. L. R. B. 1140; and *Matter of Swift and Company*, 57 N. L. R. B. 1334.

³ The U. E. does not desire to participate in the election on behalf of the plant-protection employees.

DIRECTION OF ELECTIONS

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 RCA Victor Division of Radio Corporation of America, Bloomington, Indiana, separate elections 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 units 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; (1) to determine whether the employees in the plant-wide unit desire to be represented by United Electrical, Radio & Machine Workers of America, C. I. O., or by International Brotherhood of Electrical Workers, A. F. of L., for the purposes of collective bargaining, or by neither; and (2) to determine whether or not the employees in the plant-protection unit desire to be represented by International Brotherhood of Electrical Workers, A. F. of L., for the purpose of collective bargaining.

ORDER

Upon the basis of the foregoing findings of facts, and upon the entire record in the case, the National Labor Relations Board hereby orders that the petition for investigation and certification of representatives of employees of RCA Victor Division of Radio Corporation of America at its Bloomington, Indiana, plant, filed by United Electrical, Radio & Machine Workers of America, C. I. O., be, and it hereby is, dismissed.