

In the Matter of DORTCH STOVE WORKS, INC. and UNITED STEEL-  
WORKERS OF AMERICA (CIO)

*Case No. 10-R-1253.—Decided September 20, 1944*

*Mr. W. Raymond Denny*, of Nashville, Tenn., and *Messrs. T. F. Lanse* and *G. O. Stanley*, both of Franklin, Tenn., for the Company.

*Mr. William Dunn*, of Nashville, Tenn., for the Union.

*Mr. Joseph C. Wells*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America (CIO), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Dortch Stove Works, Inc., Franklin, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Irving Rogosin, Trial Examiner. Said hearing was held at Franklin, Tennessee, on August 1, 1944. The Company and the Union 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

Dortch Stove Works, Inc., is a Tennessee corporation engaged in the manufacture of stoves at Franklin, Tennessee. During the past 12 months the Company purchased from points outside the State of Tennessee raw materials and other unfinished products of a value in excess of \$400,000, for use at its plant at Franklin, Tennessee. During

the same period the Company sold and delivered to points outside the State more than \$750,000 worth of its finished products.

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, 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 certain employees until the Union has been certified by the Board in an appropriate unit.

A statement of the Trial Examiner, introduced into evidence at the hearing, indicates that the Union represents a substantial number of the employees involved herein.<sup>1</sup>

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 DETERMINATION OF REPRESENTATIVES

The petition filed by the Union alleges to be appropriate a unit comprised of inspectors, plant clerical employees, checkers and markers<sup>2</sup> at the Company's plant at Franklin, Tennessee. However, at the hearing the Union stated that it desired to represent these employees as a part of the existing production and maintenance unit. The Company takes the position that the inspectors are supervisory employees within the Board's usual definition, and that the remaining employees sought to be represented by the Union in this proceeding are clerical employees who should not be included in a bargaining unit of production and maintenance employees.

On October 16, 1943,<sup>3</sup> the Board, in accordance with a stipulation between the Company and the Union, directed an election among all employees at the Company's plant at Franklin, Tennessee, excluding clerical workers, salesmen, checkers, inspectors, foremen, and any other supervisory employees. The Union won the election and on December 15, 1943, entered into a contract with the Company with respect to these employees.

<sup>1</sup> The Trial Examiner reported that at the hearing the Union submitted 10 membership application cards all of which bore apparently genuine original signatures; that 9 of the cards were dated April 1944, and 1 was dated March 1944. There are approximately 10 employees in the group which the Union seeks to represent.

<sup>2</sup> A company witness testified that the Company has no employees classified as markers. Checkers appear to perform timekeeping duties.

<sup>3</sup> *Matter of Dortch Stove Works, Inc.*, 52 N. L. R. B. 1450.

The Company employs approximately five inspectors who inspect the work of a number of production and maintenance employees, instruct new employees, and perform numerous assignments necessary to maintain a steady flow in the production of the Company's finished products. They have no authority to hire or discharge employees, and, although a Company witness testified that they have authority effectively to recommend such action, there is nothing in the record to show that the Company has ever hired, discharged, or changed the status of employees on the basis of a recommendation made by one of these inspectors.<sup>4</sup> We have frequently held that inspectors having duties similar to those here involved may participate in collective bargaining, and have included them in units with production and maintenance employees.<sup>5</sup> No sufficient reason here appears why the inspectors may not be so included.

One of the employees sought by the Union herein is employed principally to change the dies on machines and to instruct new employees. He was described at the hearing as a "die setter." Although he testified at the hearing that he spent a portion of his time as an "assistant foreman," it is clear that his duties are not supervisory within the Board's usual definition, and that he may properly be included in a unit with other production and maintenance employees.<sup>6</sup>

Approximately four employees perform work of a clerical nature in that part of the plant reserved for the Company's production work. One of these employees is a stockroom clerk, another is called a "control board clerk" and maintains a perpetual stock inventory, another is called a "put-away man" and stores parts in the proper storage space, and another keeps a record itemizing the weights and classifications of castings subsequent to the cleaning, grinding and inspection operations and is known as the "scale man." While the duties of these employees are clerical, the record indicates they are under the direction of the production department supervisors; that their work is closely aligned to that of production employees; and that they are physically separated from the clerical employees in the Company's main office. We are of the opinion that these plant clerical employees may properly be included in the existing production and maintenance unit.<sup>7</sup>

One of the Company's employees is classified as a "timekeeper and checker." His duties consist of keeping the time of about 30 produc-

<sup>4</sup>Two additional employees in the cleaning department are classified as inspectors. These two employees are not involved in the proceeding inasmuch as the Company and the Union have agreed heretofore to include them in the existing bargaining unit of production and maintenance employees.

<sup>5</sup>*Matter of Industrial Rayon Corporation*, 56 N L R B 547 and 1679, and cases cited therein. See *Matter of United Wall Paper Factories*, 49 N L R B 1423.

<sup>6</sup>See *Matter of Ahlberg Bearing Company*, 56 N L R B 320.

<sup>7</sup>See *Matter of Aluminum Forgings, Inc.*, 53 N L R B 1054.

tion employees in the steel fabricating department and performing other miscellaneous clerical work. We are of the opinion that the duties and interests of this employee are not sufficiently akin to those of the production and maintenance workers as to warrant his inclusion within the same bargaining unit.<sup>8</sup>

In accordance with the foregoing considerations, we shall direct an election among the inspectors, the die setter, and the plant clerical employees, but excluding the timekeeper and checker, for whom the Union petitions in this proceeding to determine whether or not they wish to be represented by the Union. In the event that a majority of their number select the Union as their collective bargaining representative, they will have indicated their desire to be part of the appropriate unit presently represented by the Union, and will be part of such unit.

Accordingly, we shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the inspectors, the die setter, and the plant clerical employees, but excluding the timekeeper and checker, who were employed by the Company 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 Dortch Stove Works, Inc., Franklin, Tennessee, 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 Tenth 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 inspectors, the die setter, and the plant clerical employees, but excluding the timekeeper and checker, in the Company's employ who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during

<sup>8</sup> See *Matter of Aluminum Forgings, Inc.*, *supra*

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 United Steelworkers of America (CIO), for the purposes of collective bargaining.

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