In the Matter of RHEEM MANUFACTURING COMPANY *and* UNITED STEELWORKERS OF AMERICA, C. I. O.

In the Matter of RHEEM MANUFACTURING COMPANY *and* INTERNATIONAL ASSOCIATION OF MACHINISTS, A. F. OF L.

Cases Nos. 10–R–1171 and 10–R–1190 respectively

SUPPLEMENTAL DECISION

AND

DIRECTION

September 21, 1944

On July 13, 1944, the National Labor Relations Board, herein called the Board, issued its Decision and Direction of Election in this proceeding.[1] Pursuant to the Direction of Election, an election by secret ballot was conducted on July 31, 1944, under the direction and supervision of the Regional Director for the Tenth Region (Atlanta, Georgia). Upon the conclusion of the election a Tally of Ballots was furnished the parties in accordance with the Rules and Regulations of the Board.

As to the balloting and the results the Tally of Ballots shows as follows:

Approximate number of eligible voters	152
Valid votes counted	82
Votes cast for United Steelworkers of America, C I O	24
Votes cast for International Association of Machinists, A. F. of L.	41
Votes cast against participating unions	17
Challenged ballots	12
Void ballots	2

In view of the fact that the counting of the challenged ballots was essential to determine the results of the election, the Regional Director investigated the validity of the 12 challenged ballots. On August 22, 1944, the Regional Director, acting pursuant to Article III, Section 10, of National Labor Relations Board Rules and Regulations, issued a Report on Challenged Ballot. On August 28, 1944. the International Association of Machinists, affiliated with the A. F. of L., herein called the IAM, filed Exceptions to the Report. No other party filed Excep-

[1] 57 N L. R. B. 254.

tions within the time provided therefor. We have considered the Report, and the Exceptions.

The Company challenged the ballots of six leadmen, namely: Leonard Brooks, Robert Karrh, Paul Cates, Earl H. Schwantes, William S. Pitts, and L. C. Geier, on the ground that they were supervisory employees. The Regional Director's investigation reveals that Brooks, Karrh, Cates, Schwantes, and Pitts are in substantially similar positions; that foremen have followed, without further investigation, recommendations made by Schwantes and Pitts which have affected the working status of several employees; and that Brooks, Karrh, and Cates are invested with similar supervisory authority but, because of their short term of employment, they have not received an opportunity to demonstrate such authority. We find that Brooks, Karrh, Cates, Schwantes, and Pitts are supervisory employees, and therefore, not eligible to vote, and we shall direct that their ballots be not counted. As to Geier, the Regional Director reported that there is no evidence to show that he possesses the necessary authority to raise him to the stature of a supervisory employee. While it appears that Geier reports bad work to his foreman, no action is taken on such reports until the latter conducts an independent investigation. We find that Geier is not a supervisory employee, and therefore, is entitled to vote. We shall direct that his ballot be opened and counted.

The Company challenged the ballot of F. H. Goode, a millwright employed in the Company's maintenance department, on the ground that such employee was covered by the terms of an existing contract between the Company and United Steelworkers of America, affiliated with the C. I. O.,[2] and was not part of the voting group of aircraft division employees. From his investigation, the Regional Director concluded that the Company's challenge had merit and recommended that the challenge be sustained. The I. A. M. took no exception to that portion of the Regional Director's Report. We find that Goode was not eligible to vote in the election, and direct that his ballot be not counted.

The Company challenged the ballots cast by five tool and die makers for the same reason it advanced for its challenge of the millwright's ballot. The Regional Director's investigation shows that tool and die makers work in and perform most of their duties for the aircraft division. Moreover, it appears that, during certain informal meetings of the parties herein, it was agreed that tool and die makers should be included in the present voting unit of aircraft division employees. Under the circumstances, we shall direct that the ballots of the tool and die makers be opened and counted.

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[2] The unit covered by that contract was established by the Board in *Matter of Rheem Manufacturing Company*, 52 N L R. B 1527

DIRECTION

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, Sections 9 and 10, of National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining with Rheem Manufacturing Company, Birmingham, Alabama, the Regional Director for the Tenth Region shall, pursuant to the said Rules and Regulations, within ten (10) days from the date of this Direction, open and count the challenged ballots of L. C. Geier and the five tool and die makers, and shall thereafter prepare and cause to be served upon the parties a Supplemental Tally of Ballots, embodying therein his findings.