

In the Matter of DEFIANCE SCREW MACHINE PRODUCTS COMPANY and
INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICUL-
TURAL IMPLEMENT WORKERS OF AMERICA, C. I. O.

Case No. 8-R-1584.—Decided September 23, 1944

Mr. Alan B. Loop, of Toledo, Ohio, for the Company.

Mr. Harold K. Kolhe, of Toledo, Ohio, for the UAW-CIO.

Mr. Joseph F. Bushong, of Defiance, Ohio, for the IAM.

Mr. Harold A. Bauer, of Defiance, Ohio, for the Association.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, C. I. O., herein called the UAW-CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Defiance Screw Machine Products Company, Defiance, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Thomas E. Shroyer, Trial Examiner. Said hearing was held at Defiance, Ohio, on August 8, 1944. At the commencement of the hearing the Trial Examiner granted motions of International Association of Machinists, District No. 129, A. F. of L., herein called the I. A. M., and Defiance Screw Machine Workmen's Association, herein called the Association, to intervene. The Company, the UAW-CIO, the I. A. M., and the Association appeared and participated in the hearing and all parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the close of the hearing, counsel for the Company moved to dismiss the petition. The Trial Examiner reserved ruling thereon. The motion is hereby denied. 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

Defiance Screw Machine Products Company is an Ohio corporation with its principal place of business at Defiance, Ohio, where it is engaged in the manufacture of screw machine products. During 1943 the Company purchased raw materials valued in excess of \$400,000, over 50 percent of which was shipped to it from points outside the State of Ohio. During the same period the Company sold products valued in excess of \$2,000,000, over 50 percent of which was shipped to points outside the State of Ohio.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

International Association of Machinists, District No. 129, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Defiance Screw Machine Workmen's Association is an unaffiliated labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On February 29, 1944, the UAW-CIO requested the Company to recognize it as the exclusive collective bargaining representative of the Company's employees. The Company did not reply to this request, and contends that the petition should be dismissed because the Association was certified as the exclusive representative less than a year ago.

On June 22, 1943, the Company and the Association entered into an exclusive collective bargaining contract. The contract provided that it should remain in effect from July 1, 1943, to June 30, 1944. On September 17, 1943, the Board issued a Decision¹ involving the same contract and found therein that the contract was not a bar, since the claim of the I. A. M., the petitioner in that case, was made in timely fashion. On October 22, 1943, the Board, after an election, certified the Association as the exclusive bargaining representative of the employees. Although the contract expired on June 30, 1944, the Association and the Company are at present operating under a written extension of the agreement which is for an indefinite term.

¹ 52 N. L. R. B. 686.

As a general rule, we do not conduct a new election within a year of a prior certification. Where a contract for a reasonable term has been entered into with a certified representative, in the interest of stability we customarily refuse to disturb such a contractual relationship until the initial period of the contract is about to expire. Here, the certification will be a year old by the time an election can be concluded. We, therefore, find that the certification of October 22, 1943, is not a bar to this proceeding.² Moreover, since the contract is for an indefinite term, it obviously is no bar to a determination of representatives at this time.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the UAW-CIO represents a substantial number of employees in the unit hereinafter found to be appropriate.³

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 UAW-CIO urges that all production and maintenance employees of the Company, including plant protection employees, but excluding supervisory and clerical employees, constitute an appropriate unit. The only controversy with respect to the unit concerns plant protection employees. The UAW-CIO would include such persons in the unit while the I. A. M., the Association, and the Company would exclude them.

The plant protection employees were excluded from the unit in the certification alluded to above. The UAW-CIO contends that such persons should now be included inasmuch as they have been demilitarized. The record indicates that although the United States Government has notified the Company that it might relax the requirements pertaining to guards, the only action taken by the Company was to disarm the guards. The guards are still uniformed, perform the same duties as before, and have not received discharges from the United States Army auxiliary police. For this reason, and since they have not been included in the contract unit, we shall exclude the plant protection employees from the unit.

² Cf. *Matter of Thompson Products, Inc.*, 47 N. L. R. B. 619. *Matter of Aluminum Company of America, Newark Works*, 57 N. L. R. B. 913.

³ The Field Examiner reported that the UAW-CIO presented 132 membership application cards bearing the names of persons who appear on the Company's pay roll of July 14, 1944. There are approximately 292 employees in the appropriate unit. The Field Examiner further reported that the I. A. M. presented 9 dues record cards bearing the names of persons on the July 14, 1944 pay roll. The Association did not present any evidence of representation but relies upon its contract, alluded to above, as evidence of its interest in the instant proceeding.

We find that all production and maintenance employees of the Company, excluding clerical and plant protection 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.

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 III, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Defiance Screw Machine Products Company, Defiance, Ohio, 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 Direction for the Eighth 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 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 they desire to be represented by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, or by International Association of Machinists, District No. 129, affiliated with the American Federation of Labor, or by Defiance Screw Machine Workmen's Association, for the purposes of collective bargaining, or by none of said organizations.