

In the Matter of *ATWATER MANUFACTURING COMPANY and UNITED STEELWORKERS OF AMERICA, CIO*

Case No. 1-R-2006.—Decided September 28, 1944

Mr. J. S. Whiteside, Jr., of New Haven, Conn., and *Mr. Ernest E. Brooks*, of Plantsville, Conn., for the Company.

Mr. Harold B. Roitman, of Boston, Mass., for the Union.

Miss Frances Lopinsky, 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 Atwater Manufacturing Company, Plantsville, Connecticut, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis Cokin, Trial Examiner. Said hearing was held at Hartford, Connecticut, on August 15, 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 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

Atwater Manufacturing Company, a Connecticut corporation, is engaged at its plant at Plantsville, Connecticut, in the manufacture of drop forgings. During the six months' period preceding July 28, 1944, the Company purchased approximately \$300,000 worth of raw materials from points outside the State of Connecticut. During the same period, the Company shipped finished products valued at about \$1,000,000 from its Plantsville plant to points outside the State of Connecticut. The Company is engaged 100 percent in war work.

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

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found 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

We find in accordance with the agreement of the parties, that all production and maintenance employees, including watchmen, guards, and inspectors on an hourly basis, but excluding office and clerical employees, foremen, assistant foremen, inspectors on a weekly or salary basis, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action,² 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

The Company contemplates employing approximately 60 persons to work a night shift. It insists that such persons, if hired, should be allowed to vote in the election. The Union disputes the right of such persons to participate. The probability that such an increase in employment will take place prior to the date of the election is remote. However, we perceive no reason why employees hired to work on the night shift, if any, should not participate in the election if they are otherwise eligible to vote within the determination of eligibility hereinafter set out.

¹ The Field Examiner reported that the Union submitted 101 authorization cards, that there were 150 employees in the appropriate unit, and that the cards were dated in July 1944. The Company supplied no pay roll against which the cards could be checked.

² Watchmen and guards employed by the Company are not militarized. Inspectors on a weekly or salary basis have supervisory authority; inspectors on an hourly basis do not.

The Company employs regular part-time employees who work for the Company at rates paid full-time employees, an average of 15 to 18 hours a week. The Union would allow these employees to vote in the election; the Company contends that their interests lie with employees at their regular places of employment and that they are, therefore, ineligible to vote in the election. Inasmuch as these employees work for the Company regularly, sharing the working conditions of the employees within the agreed unit, we are of the opinion that their interest in the present proceeding is sufficient to warrant their participation in the choice of representatives herein. Accordingly, we hold that they are eligible to vote in the election hereinafter directed.

We shall direct that the question concerning representation which has arisen be resolved by 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 Atwater Manufacturing Company, Plantsville, Connecticut, an election by secret ballot shall be conducted as early as possible, but not later than (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the First 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, and the determinations made in Section V, herein 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 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 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, CIO, for the purposes of collective bargaining.