

In the Matter of McNAMAR BOILER & TANK COMPANY and UNITED
STEELWORKERS OF AMERICA, LOCAL 3076, C. I. O.

Case No. 16-R-989.—Decided September 29, 1944

Mr. Charles A. McNamar, of Tulsa, Okla., for the Company.

Mr. John H. Curry, of Tulsa, Okla., for the Union.

Mr. Samuel G. Hamilton, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, Local 3076, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of McNamar Boiler & Tank Company, Tulsa, Oklahoma, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Glenn L. Moller, Trial Examiner. Said hearing was held at Tulsa, Oklahoma, on August 29, 1944. The Company and the Union appeared and participated.¹ 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

McNamar Boiler & Tank Company is an Oklahoma corporation with its main office and principal place of business at Tulsa, Okla-

¹ Although duly served with Notice of Hearing, and apprised by the Trial Examiner of the hearing on the day it took place, National Tank Builders Local Lodge No 500, International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America, A. F. L., failed to appear, informing the Trial Examiner that it did not assert any interest in the proceeding.

homa, where it is engaged in the fabrication of steel products, consisting chiefly of pressure vessels and storage tanks. During the year 1943, the Company processed raw materials and supplies at its Tulsa plant valued at approximately \$325,000, of which approximately 75 percent was shipped from points outside the State of Oklahoma. During the same period, the Company completed products at its Tulsa plant valued at approximately \$600,000, approximately 75 percent of which was shipped to points outside the State of Oklahoma.

The Company does not deny, and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Steelworkers of America, Local 3076, 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 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.²

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 parties are in agreement that all production and maintenance employees of the Company, including leadmen,³ should be included in the appropriate bargaining unit. They further agree that clerical employees, timekeepers, foremen, and all other supervisory employees should be excluded. There is disagreement with respect to the Company's draftsmen. The Union would exclude these employees, whereas the Company would include them.

Draftsmen make detailed shop drawings from the customers' preliminary drawings or sketches for use by the lay-out men in fabricating the Company's products. They check the work in the shop

² The Field Examiner reported that the Union submitted 72 membership cards, that the names of 33 persons appearing on the cards were listed on the Company's pay roll and supplement thereto for the period July 3 to August 11, 1944, and that there were 82 employees in the alleged appropriate unit

³ It is clear that leadmen are not supervisory employees within the meaning of our customary definition.

to insure conformity with their drawings. We shall exclude them from the unit, inasmuch as they are technical employees.⁴

We find that all production and maintenance employees at the Company's Tulsa plant, including leadmen, but excluding draftsmen, clerical employees, timekeepers, foremen 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, 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 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 limitation 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 McNamar Boiler & Tank Company, Tulsa, Oklahoma, 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 Sixteenth 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 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, to determine whether or not they desire to be represented by United Steelworkers of America, Local 3076, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

⁴ See *Matter of Bristol Steel & Iron Works, Incorporated*, 47 N. L. R. B. 1429, 1431.