

In the Matter of CLEVELAND CLIFFS IRON COMPANY (MARINE DEPARTMENT) and NATIONAL MARITIME UNION OF AMERICA (C. I. O.)

Case No. 8-R-1638.—Decided October 3, 1944

Duncan Leckie, McCrory, Schlitz and Hinslea, by Messrs. Lee C. Hinslea and J. F. Wieser, of Cleveland, Ohio, for the Company.

Mr. William L. Standard by Mr. Herman Rosenfeld, of New York City 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 National Maritime Union of America (C. I. O.), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of the Cleveland Cliffs Iron Company, Cleveland, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Frank L. Danello, Trial Examiner. Said hearing was held at Cleveland, Ohio, on September 15, 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. The Company's request for oral argument is hereby denied.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Cleveland Cliffs Iron Company, an Ohio corporation, is engaged in the transportation of bulk cargoes on the Great Lakes and tributary waters, and maintains its principal offices in Cleveland, Ohio. Dur-

58 N. L. R. B., No 148.

ing the period from May 1, to December 1, 1943, the Company transported approximately 5,000,000 tons of bulk cargoes between various ports on the Great Lakes.

The Company admits and we find, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

National Maritime Union 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.

Statements of a Field Examiner and the Trial Examiner, introduced into evidence at the hearing, indicate 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

The Union alleges to be appropriate a bargaining unit comprised of all unlicensed personnel on vessels owned or regularly operated by the Company, on the Great Lakes, including chief cooks.²

The Company agrees that the unit is substantially appropriate, but contends that the chief cooks should be excluded on the ground that they are supervisory employees.

The Company employs approximately 25 chief cooks who are in charge of the steward department on each of its vessels. The steward department functions to prepare all meals for the vessel's crew. The chief cooks supervise the second cooks, night cooks, and porters, and procure and purchase food and other supplies needed by the steward department on each vessel. It is clear that the chief cooks possess and

¹ The Field Examiner reported that the Union submitted 484 authorization cards, dated between April and August 1944.

The Trial Examiner stated that at the hearing, the Union submitted 136 additional cards, and that 216 of the names appearing on the 620 cards submitted by the Union appeared on the Company's September 1, 1944, pay roll or on a supplementary pay roll as of on or about September 13, 1944. The Company employs approximately 685 workers in the unit alleged by the Union to be appropriate.

² The term "chief cook" is apparently used interchangeably with the term "steward."

exercise supervisory authority within the Board's usual definition, since they hire and discharge the personnel of the steward departments. Nevertheless, for the reasons stated in *Matter of Midland Steamship Line, Inc.*,³ wherein we considered the same issue, we will include the chief cooks in the unit, in view of the custom in the maritime industry.

We find that all unlicensed personnel on vessels owned or regularly operated by the Company on the Great Lakes, including chief cooks, but excluding 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 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 the Cleveland Cliffs Iron Company, Cleveland, 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 Director 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 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 ex-

³ 53 N. L. R. B. 727.

cluding 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 National Maritime Union of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.