

In the Matter of THE WOOD SHOVEL & TOOL COMPANY and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, UAW-CIO

Case No. 8-R-1675.—Decided November 11, 1944

Mr. Wilbur F. Pell, of Shelbyville, Ind., and *Squire, Sanders & Dempsey*, of Cleveland, Ohio, for the Company.

Mr. Harold A. Tull, of Troy, Ohio, and *Mr. Dorsey Carr*, of Piqua, Ohio, for the UAW-CIO.

Mr. Harold L. Colvin, of Louisville, Ky., for the Firemen.

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, UAW-CIO, herein called the UAW-CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of The Wood Shovel & Tool Company, Piqua, 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 Piqua, Ohio, on October 27, 1944. At the commencement of the hearing the Trial Examiner granted a motion of International Brotherhood of Firemen and Oilers, A. F. of L., herein called the Firemen, to intervene. The Company, the UAW-CIO, and the Firemen 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 opportunity to file briefs with the Board.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Wood Shovel & Tool Company is an Ohio corporation operating a plant at Piqua, Ohio. During its fiscal year ending June 30, 1944, the Company purchased 71 percent of its raw materials from points outside the State of Ohio. During the same period the Company sold products valued in excess of \$10,000, over 80 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 Brotherhood of Firemen and Oilers is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On July 12, 1944, the UAW-CIO requested the Company to recognize it as exclusive bargaining representative of the Company's employees. The Company refused this request until such time as the UAW-CIO is certified by the Board.

On August 15, 1943, the Company and the Firemen entered into an exclusive collective bargaining contract covering the engineers and firemen employed by the Company. Said contract provides that it shall remain in effect until August 15, 1944, and from year to year thereafter unless either party thereto notifies the other of a desire to terminate not less than 30 days prior to any annual expiration date. It is unnecessary to determine the effect of this agreement on the instant proceeding inasmuch as the employees covered thereby are not involved herein.

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.¹

¹ The Field Examiner reported that the UAW-CIO presented 274 authorization cards. There are approximately 350 employees in the appropriate unit. The Firemen does not claim to represent any employees in the appropriate unit.

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 alleges that all production and non-production employees of the Company, excluding clerical employees, time clerks, engineers, firemen, draftsmen, tool engineer, executive, administrative and professional employees, chief engineers, foremen, night foremen, and assistant foremen, constitute an appropriate unit. The only controversy with respect to the unit concerns line supervisors, supervisors, and the assistant shipping clerk.

The Company employs 6 employees classified as line supervisors and 6 employees classified as supervisors. All of them have authority to recommend the discharge and discipline of their subordinates and each of them has from 8 to 20 employees under his supervision. We find that the line supervisors and the supervisors are supervisory employees, and as such, we shall exclude them from the unit.

The assistant shipping clerk is in reality an assistant foreman supervising the work of seven persons in the shipping department. He has the authority effectively to recommend changes in the status of his subordinates. Accordingly, we shall exclude him from the unit.

We find that all production and non-production employees of the Company, excluding clerical employees, time clerks, engineers, firemen, tool engineer, draftsmen, chief engineers, foremen, night foremen, assistant foremen, line supervisors, supervisors, the assistant shipping clerk, 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 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 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Wood Shovel & Tool Company, Piqua, 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 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 International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, UAW-CIO, for the purposes of collective bargaining.