

In the Matter of THE FIRESTONE TIRE AND RUBBER COMPANY and  
UNITED RUBBER WORKERS OF AMERICA, LOCAL UNION No. 7, C. I. O.

*Case No. 8-R-1668.—Decided November 27, 1944*

*Messrs. Harold Mull, W. R. Murphy, W. C. Reese, and R. M. Stacy,*  
of Akron, Ohio, for the Company.

*Messrs. Robert E. Shuff and E. H. Little,* of Akron, Ohio, for the  
Union.

*Mr. Thomas A. Ricci,* of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by United Rubber Workers of America, Local Union No. 7, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Firestone Tire and Rubber Company, Akron, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Ruth E. Sevcik, Trial Examiner. Said hearing was held at Akron, Ohio, on October 18, 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.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Firestone Tire and Rubber Company, an Ohio corporation, is engaged in the manufacture of rubber and rubber products at various plants in a number of States. This proceeding solely concerns certain  
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of the Company's employees at its plants located in Akron, Cuyahoga Falls, and Barberton, all in Ohio. During the 12-month period preceding the date of the hearing, a major portion of the raw materials used in the Akron, Cuyahoga Falls, and Barberton plants was shipped to these plants from points outside the State of Ohio. During the same period, the Company manufactured, at these plants, products valued in excess of \$1,000,000, a major portion of which was shipped to points outside that State.

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

#### II. THE ORGANIZATION INVOLVED

United Rubber Workers of America, Local Union No. 7, 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.<sup>1</sup>

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 seeks a unit of all employees in the Company's plant-protection department, covering its Akron, Cuyahoga Falls, and Barberton plants, including firemen, watchmen and police patrolmen,<sup>2</sup> but excluding salaried clerical and supervisory employees. The Company contends that its plant-protection employees cannot properly be included in any bargaining unit because of the nature of their duties. However, the Company states that, if this contention be overruled by the Board, it agrees to the unit as requested by the Union.

All the employees requested by the Union are members of the Auxiliary Military Police. All wear uniforms and some carry revolvers. They guard against fires, sabotage, thefts, and disturbances among

<sup>1</sup> The Field Examiner reported that the Union submitted 110 application cards, and that there are 150 employees in the alleged appropriate unit.

<sup>2</sup> This latter group includes 15 female employees.

employees. They patrol Company's plants and properties, preventing violations of safety rules and reporting them when they occur.

The Company argues that its plant-protection employees perform supervisory functions because they decide whether or not particular violations of company rules should be reported and because their reports may lead to the discharge of employees. It also urges that representation of militarized employees and production and maintenance workers by the same labor organization<sup>3</sup> is against public policy, because the constitution of the Union's parent organization would require the militarized employees to strike in sympathy with the Company's non-militarized employees. We rejected similar arguments which were advanced by the Company with respect to the militarized plant-protection employees at its Los Angeles, California, plant.<sup>4</sup>

Consequently, we find that all employees in the Company's plant-protection departments, working at its Akron, Cuyahoga Falls, and Barberton plants, including firemen, watchmen and police patrolmen, but excluding salaried clerical 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 an election by secret ballot among the employees in the appropriate unit who were employed during the payroll 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 Firestone Tire and Rubber Company, Akron, 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

<sup>3</sup> The Union currently represents production and maintenance employees of the Company.

<sup>4</sup> *Matter of Firestone Tire and Rubber Company of California*, 50 N. L. R. B. 679.

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 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 Rubber Workers of America, Local Union No. 7, C. I. O., for the purposes of collective bargaining.