

In the Matter of JOHNSON BRONZE COMPANY and INTERNATIONAL
-UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLE-
-MENT WORKERS OF AMERICA, C. I. O.

Case No. 6-R-1022.—Decided December 14, 1944

Messrs. Joseph F. Castiello and E. M. Flaherty, of Washington, D. C., for the Company.

Mr. Maurice Sugar, by Mr. N. L. Smokler, of Detroit, Mich., and Mr. Ruebin Peters, of Cleveland, Ohio, for the UAW-CIO.

Mr. A. G. Skundor, of Pittsburgh, Pa., for the IAM.

Mr. Edwin K. Logan, of New Castle, Pa., for the Independent.

Miss Melvern R. Krelow, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O., herein called the UAW-CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Johnson Bronze Company, New Castle, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Walter B. Wilbur, Trial Examiner. Said hearing was held at New Castle, Pennsylvania, on November 13, 1944. The Company, the UAW-CIO, and International Association of Machinists, District Lodge No. 14, A. F. L., herein called the IAM, 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. At the hearing, the Trial Examiner reserved for the Board a ruling on the Company's motion to dismiss the petition. The motion was predicated on the fact that there had been no judicial review of the Board's

¹Pattern Makers League of North America and International Molders & Foundry Workers Union of North America were served, but did not appear at the hearing.

Decision and Order in the *Matter of Johnson Bronze Company*, Case No. C-2595,² in which the Board directed the Company to withdraw all recognition from and to disestablish Bronze Workers Independent Union, herein called the Independent, as a collective bargaining representative of any of its employees and to cease giving effect to any collective bargaining agreement it had with that organization, and that consequently there had been no final determination of the Independent's status as an alleged dominated organization. We see no reason for withholding administrative action or for acting in this proceeding on the assumption that the Decision and Order may not be sustained if a judicial determination is sought.³ The motion is hereby denied. The Trial Examiner denied a motion by the Independent for leave to intervene on the asserted grounds that it represents a substantial number of the Company's employees, and that since July 21, 1944, it has had an exclusive collective bargaining contract with the Company which is still in effect. For the reasons cited by us in *Matter of New Idea, Inc.*, *supra*, the ruling of the Trial Examiner is hereby affirmed. All other rulings made by the Trial Examiner 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

Johnson Bronze Company is a Pennsylvania corporation having its office and principal place of business in New Castle, Pennsylvania, where it is engaged in the manufacture and sale of bronze bushings and bearings. For the 18-month period ending June 1944, the Company purchased material consisting principally of bronze and copper ingots, tin, antimony, and lead, valued at approximately \$500,000, of which approximately 60 percent was shipped from points outside the Commonwealth of Pennsylvania. During the same period, the value of the net sales of the Company's products was approximately \$10,000,000, of which 85 percent was shipped to points outside the Commonwealth of Pennsylvania.

The Company admits, for the purpose of this proceeding, that it is engaged in commerce within the meaning of the Act.

² 57 N L R B 814

³ See *Matter of New Idea, Inc.*, 25 N. L. R. B. 265; *Matter of Clinchfield Coal Corporation*, 57 N L R B 1615

II. THE ORGANIZATIONS INVOLVED

International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

International Association of Machinists, District Lodge No. 14, affiliated with the American Federation of Labor, 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 UAW-CIO as the exclusive bargaining representative of its employees on the ground that it has a collective bargaining agreement with the Independent which does not terminate until July 21, 1945, and asserts that such agreement is a bar to a present determination of representatives. This contract is the same as that referred to above in connection with the Independent's motion to intervene in this proceeding. In view of our Order in Case No. C-2595, above-mentioned, in which we directed the Company to cease giving effect to any collective bargaining agreement it had with the Independent, any contract between the Company and that organization can constitute no bar to a present determination of representatives.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the UAW-CIO represents a substantial number of employees in the unit hereinafter found appropriate.⁴

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 general agreement that all production and maintenance employees, including pattern makers, receiving and shipping employees; and toolroom employees (including tool crib employees), but excluding office employees, clerical employees, watchmen, and plant-protection employees, foremen and supervisory employees, constitute an appropriate unit. There is a dispute with respect to machine setters; the Company contends that they are supervisory and should be excluded; the IAM contends that they are non-supervisory and

⁴ The Field Examiner reported that the UAW-CIO submitted 1329 authorization cards, 1 dated in 1940, 4 in 1941, 396 in 1942, 221 in 1943, 285 in 1944, and 422 undated. There are approximately 1331 employees in the unit. The IAM submitted 71 authorization cards. The UAW-CIO made a motion that the IAM, in view of its small showing of representation, not be allowed a place on the ballot. Since the IAM has made some showing of representation among the employees of the Company and inasmuch as an election is to be conducted, we shall accord it a place on the ballot.

should be included; the UAW-CIO takes no position with reference to the supervisory status of the employees.

There are 71 machine setters employed by the Company. The Company states that the use of the term "machine setters" is incorrect and that these persons are "subforemen." The setters have an average of 8 to 10 employees under their direction. They adjust and set up machines, instruct new operators, assign work, keep the production of their respective groups flowing, and maintain discipline. Their rates of pay are approximately 8 to 10 cents per hour higher than that of a first class operator. They report infractions of rules to the foremen, who in turn submit them to the personnel office. Although they have no authority to hire or discharge employees, the record indicates that their reports with respect to complaints regarding employees in their respective groups are seriously considered by the personnel office. We find that the machine setters are supervisory employees, and we shall exclude them from the unit.

We find that all production and maintenance employees of the Company including pattern makers, receiving and shipping employees, and toolroom employees (including tool crib employees), but excluding office employees, clerical employees, watchmen and plant-protection employees, foremen, machine setters, 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 payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

Although the Company has not complied with our Decision and Order in Case No. C-2595, the UAW-CIO and the IAM have not expressed a desire that the election be postponed until such compliance has been secured.⁵

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

⁵ The UAW-CIO and the IAM waived the right to object to any election ordered herein on the basis of the charges filed in Case No. C-2595.

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Johnson Bronze Company, New Castle, Pennsylvania, 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 Sixth 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 they desire to be represented by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O., or by International Association of Machinists, District Lodge No. 14, A. F. L., for the purposes of collective bargaining, or by neither.