

In the Matter of THOMAS A. HOSTY, AN INDIVIDUAL D/B/A STANDARD PATTERN WORKS and PATTERN MAKERS LEAGUE OF NORTH AMERICA, DISTRICT No. 1, A. F. L.

Case No. 9-R-1629.—Decided December 15, 1944

Mr. James Manley, Jr., of Cincinnati, Ohio, for the Company.

Mr. C. D. Madigan, of Cleveland, Ohio, and *Mr. George Lanser*, of St. Bernard, Ohio, for the Union.

Mr. Bernard Goldberg, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Pattern Makers League of North America, District No. 1, A. F. L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Thomas A. Hosty, an individual d/b/a Standard Pattern Works, Cincinnati, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis Penfield, Trial Examiner. Said hearing was held at Cincinnati, Ohio, on November 8, 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

Thomas A. Hosty, an individual d/b/a Standard Pattern Works, owns and operates a pattern shop and foundry in Cincinnati, Ohio. During the calendar year 1943, the Company purchased raw materials

valued at approximately \$23,000, almost all of which was purchased from suppliers located within the State of Ohio. During the same period, the Company sold patterns and castings valued at approximately \$170,000, practically all of which was sold and shipped to customers situated inside the State of Ohio. The Ohio firms which purchased 95 percent of the Company's output were the American Tool Works, which during its 1943 fiscal year produced finished products valued in excess of \$10,000,000 of which 90 percent was shipped to points outside the State of Ohio; the Marion Steam Shovel Company, which during 1943 produced \$16,200,000 worth of finished products, 95 percent of which was shipped to points outside the State of Ohio; the Edwards Manufacturing Company, whose annual production is valued in excess of \$3,000,000, more than 90 percent of which is shipped and sold to customers outside the State of Ohio; the Buckeye Steel Castings Company, whose annual sales exceed \$8,000,000, of which 95 percent represents sales in States other than the State of Ohio; and the Shepherd Elevator Company, whose sales during 1943 were valued at approximately \$827,000, of which about 25 percent represents sales to customers located outside the State of Ohio.

We find, contrary to its contention, that the Company is engaged in commerce within the meaning of the National Labor Relations Act.¹

II. THE ORGANIZATION INVOLVED

Pattern Makers League of North America, District No. 1, 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 Union as the exclusive bargaining representative of any 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.

¹ See *Matter of The Superior Pattern Company, et al.*, 57 N L R B. 1253.

² The Field Examiner reported that the Union submitted 11 dues books, 10 of which were dated June 12, 1944, and 1 June 1, 1937; and that there are 15 employees in the appropriate unit.

IV. THE APPROPRIATE UNIT

The Union seeks a unit comprising all wood and metal pattern makers and pattern makers' apprentices excluding supervisory personnel. The Company agrees that the aforesaid unit is appropriate but disagrees with the Union's contention that William Laugle, a pattern maker, is a supervisory employee.

Laugle, the oldest pattern maker in point of service with the Company, receives the same rate of pay and performs the same work as other top pattern makers in the shop. During the absences of Lange, the superintendent, Laugle sometimes answers the phone, and infrequently will assign work to some of the other pattern makers. This is the extent to which it may be said that Laugle's duties differ from those of the other pattern makers. We find that Laugle has none of the attributes of a supervisory employee within the Board's definition and shall, therefore, include him in the unit.

We find that all wood and metal pattern makers and pattern makers' apprentices,³ excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommended 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 Thomas A. Hosty, election by secret ballot shall be conducted as early as possible, but an individual d/b/a Standard Pattern Works, Cincinnati, Ohio, an

³ This includes Robert McGinley and Raymond Wyenandt, who are pattern makers' apprentices, but excludes Howard McGee, a varnisher.

not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Ninth 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 Pattern Makers League of North America, District No. 1, A. F. L., for the purposes of collective bargaining.