

In the Matter of MOORE DROP FORGING COMPANY and SPRINGFIELD DIE SINKERS LODGE No. 330 OF INTERNATIONAL DIE SINKERS CONFERENCE

Case No. 1-R-2035.—Decided February 7, 1945

Mr. Louis W. Doherty, of Springfield, Mass., for the Company.
Mr. J. G. Meiner, of Cleveland, Ohio, for the Die Sinkers.
Mr. Edward A. Raleigh, of Boston, Mass., for the Federal.
Mr. James A. Lapean, of Wales, Mass., for the Blacksmiths.
Mr. Paul Bisgyer, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon an amended petition duly filed by International Die Sinkers Conference, herein called the Conference,¹ alleging that a question affecting commerce had arisen concerning the representation of employees of Moore Drop Forging Company, Springfield, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before John W. Coddaira, Jr., Trial Examiner. Said hearing was held at Springfield, Massachusetts, on October 17 and 23, 1944. The Company, the Die Sinkers, Federal Labor Union #22804, American Federation of Labor, herein called the Federal, and International Brotherhood of Blacksmiths, Drop Forgers and Helpers, Local No. 570, (AFL), herein called the Blacksmiths, appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witness, 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.

¹ At the hearing, the Conference made a motion to substitute in its place Springfield Die Sinkers Lodge No. 330 of International Die Sinkers Conference, herein called the Die Sinkers, and to amend the title of this proceeding to read as described above. The Federal objected on the ground that the Die Sinkers was not chartered by the Conference until a few days after the petition was filed. The Trial Examiner reserved ruling on the motion for the Board. We find no merit in the Federal's objection and hereby grant the motion.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Moore Drop Forging Company is a Massachusetts corporation having its principal place of business at Springfield, Massachusetts. The Company maintains plants in Springfield and Chicopee, Massachusetts, called the Brightwood, Chicopee, and Hinge plants, where it is engaged in the manufacture of drop forgings. For the year ending October 31, 1943, raw materials used in its operations were valued at approximately \$4,713,000, almost all of which were shipped to it from points outside the Commonwealth of Massachusetts. For the same period, the Company's finished products were valued at \$15,710,000, of which about 70 percent was shipped to points outside Massachusetts.

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

II. THE ORGANIZATIONS INVOLVED

Springfield Die Sinkers Lodge No. 330 of International Die Sinkers Conference, is a labor organization admitting to membership employees of the Company.

Federal Labor Union #22804, and International Brotherhood of Blacksmiths, Drop Forgers & Helpers, Local No. 570, both affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about August 7, 1944, the Die Sinkers requested the Company to bargain with it as the representative of the Company's die workers. The Company refused, asserting that it was already bound by a contract with the Federal covering die workers as well as other employees.

The Company now argues that the contract which it executed with the Federal on August 14, 1944, constitutes a bar to this proceeding, inasmuch as the terms thereof were agreed upon on August 2, 1944, prior to the Die Sinkers' claim to representation. However, in view of the fact that the agreement admittedly was reduced to writing subsequent to the Die Sinkers' claim, we find, in accordance with our settled policy, that the contract does not preclude a present determination of representatives.²

² *Matter of Elicor, Inc.*, 46 N. L. R. B. 1035.

A statement of a Board Field Examiner, introduced into evidence at the hearing, indicates that the Die Sinkers represents a substantial number of employees in the unit hereinafter found appropriate.³

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 DETERMINATION OF REPRESENTATIVES

The Die Sinkers seeks a unit of all the Company's employees working on dies and parts of dies used in the manufacture and completion of forgings. The Federal and the Company argue that the proposed unit is inappropriate in view of the fact that collective bargaining at the Company's plants has been conducted on the basis of a production and maintenance unit, including die workers.

On July 2, 1941, after a consent election held under Board auspices, which the Federal won, the Federal and the Company entered into a 1-year contract covering, with certain unimportant exceptions, all employees at the Company's Brightwood, Chicopee, and Hinge plants.⁴ Prior to the expiration of this contract, on April 21, 1942, the Blacksmiths filed a petition alleging as appropriate a unit of production employees in the Brightwood and Chicopee forging departments.⁵ Since the Federal, subsequent to the filing of the petition, relinquished jurisdiction over such employees, and the Company did not oppose the propriety of the unit sought, the Board found that the forging department employees constituted an appropriate unit.⁶ As a result of the directed election the Blacksmiths was certified. Thereafter, on December 22, 1942, the Blacksmiths concluded a contract with the Company covering the employees in the appropriate unit. The 1942 contract was followed by the current agreement which was executed in February 1944.

In the meantime, the Federal maintained its contractual relations with the Company for all employees except those embraced by the Blacksmiths' agreements, by automatic renewal of its 1941 agreement, and by successive agreements in 1943 and 1944. As noted above, the last contract was executed on August 14, 1944, after the Die Sinkers served notice of its claim of representation.

³ The Field Examiner reported that the Die Sinkers submitted 74 membership application cards bearing the names of persons listed on the Company's pay roll of August 6, 1944, which contained the names of 225 employees in the alleged appropriate unit.

The Federal relies on its contract as proof of interest in this proceeding.

⁴ Cases Nos. 1-R-591 and 1-R-615. The contract unit conformed to the unit set forth in the consent election agreement.

⁵ There is no forging department at the Hinge plant.

⁶ *Matter of Moore Drop Forging Company*, 43 N. L. R. B. 673.

The Company employs at its Brightwood and Chicopee plants approximately 205 die workers⁷ who perform the usual functions associated with their craft such as making, sinking, trimming, and repairing dies and parts of dies. They comprise a single department under the direct supervision of foremen and assistant foremen who are themselves die makers by trade and familiar with the peculiar problems related to this craft. The various die operations are generally segregated from other plant operations.⁸ Die workers, in the main, receive a higher rate of pay than other employees, and apparently have occupational seniority.⁹ It is clear that these employees are members of a highly skilled craft which requires an apprenticeship of at least 7 years to become a journeyman die sinker.

The record indicates that die workers, as a group, have consistently manifested an attitude of indifference toward the Federal. At the time of the hearing, as witnesses for the Die Sinkers testified, less than 10 die workers out of approximately 205 were members of the Federal, while about 170 were members of the Die Sinkers. The Federal neither contradicted the estimate of its present membership among die workers, nor furnished any information regarding the extent of its membership among such employees at any other time. It further appears that die workers, as a group, not only refrained from selecting representatives to act in their behalf on the Federal's negotiating and grievance committees,¹⁰ but refrained from seeking the Federal's assistance in the prosecution of their individual grievances and requests for wage increases.¹¹ Thus, the petition in this proceeding apparently reflects

⁷ There are about 90 die workers at the Brightwood plant, 115 at the Chicopee plant, and none at the Hinge plant.

⁸ The Brightwood die operations are housed in the Keller Die Room which is a 1-story structure attached to a building, the second floor of the Birnie Avenue building known as the Trimmer Die Room, and an unpartitioned section of the first floor of the Birnie Avenue building known as the Die Repair Shop, where six to eight die repair men are employed, the rest of the floor being occupied by the maintenance department and toolroom. The Chicopee die operations are carried on in a 3-story building

⁹ The 1943 and 1944 contracts between the Company and the Federal provide that "Insofar as possible, seniority shall be confined to occupational groups within departments or groups of departments."

¹⁰ Two die workers, Irwin Libbey and Edmund Gleason, who were on the committees which negotiated the 1941 and 1943 contracts, were appointed to such committees not by die workers, but by members of the Federal. Moreover, these two individuals were employed at the Brightwood plant, so that no Chicopee die workers participated in the negotiation of any contract. The president of the Federal explained that the reason for the absence of Chicopee die workers was "we evidently can't get men to represent the die room." Libbey, who was vice president of the Federal in 1941, 1942, and 1943, left the Company's employ in about September 1944, and Gleason, who was the Brightwood shop steward of the Federal from 1941 to 1944, left the Company's employ in about March 1944. It appears that no die workers have replaced them or are, at present, actively participating in the Federal's affairs

¹¹ According to the testimony of witnesses for the Die Sinkers, die workers ignored the grievance procedure outlined in the Federal's contracts, and merely continued their customary practice of presenting their individual grievances and requests for wage increases to their foreman, and if no satisfaction was obtained, to the superintendent. While the Fed-

an expression of the die workers' present desire to be represented by a bargaining agent in their dealings with the Company, where heretofore they showed no interest in union representation.

There is some evidence in the record that two general increases in which die workers shared were apparently obtained as a result of the Federal's negotiations with the Company.¹² In their 1943 contract, the Company and the Federal agreed that within 30 days after signing the contract and for 6 months thereafter, they would review the wage rates of employees in classifications listed in attached schedules for the purpose of making proper reclassifications and adjustments. Officers of the Company testified that, in accordance with this provision, several die workers who were not receiving top rates in their classifications were granted increases. However, it is not disputed that, long before the Federal's designation as bargaining agent in 1941, and thereafter, irrespective of the terms of its agreements, the Company granted wage increases to die workers upon their individual applications. Furthermore, the Company has also for a long time, independently of any agreement with the Federal, followed the practice of giving periodic merit increments to die workers, apprentices, trainees and coworkers.

In view of all the facts and circumstances of this case, we are of the opinion that die workers may constitute a separate bargaining unit or be included in the existing comprehensive unit. Therefore, before making a final determination with respect to the appropriate unit, we shall first ascertain the desires of the employees themselves, as reflected by an election. Upon the results of the election will depend, in part, our determination. We shall direct that an election by secret ballot be conducted among all the Company's employees working on dies and parts of dies used in the manufacture and completion of forgings, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, who were employed during the pay-roll period immediately preceding the date of the Direction of Election, subject to the limitations and additions set forth therein, to determine whether they desire to be represented by the Die Sinkers or the Federal. If a majority of the employees in this voting group select the Die Sinkers as their bargaining representative

eral and the Company point out that their 1941 and 1943 contracts contained provisions permitting an individual employee or a group of employees to submit grievances in the first instance to their departmental foreman, the 1943 contract also provided that the departmental representative of the employees shall "then" present the grievances to the foreman, and further, that where an unsatisfactory decision was rendered by the foreman, the grievance shall be presented by the shop steward to the superintendent. The 1941 agreement was not produced at the hearing.

¹² On July 7, 1941, the Company granted "a 5-cent overall across the board" increase, and another increase of unspecified amount on May 4, 1942. The record is vague as to whether there were others.

they will have thereby indicated their desire to constitute a separate appropriate unit. If, however, a majority of these employees choose the Federal, then they will have thereby indicated their desire to be part of the established unit presently represented by that union.

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 Moore Drop Forging Company, Springfield, Massachusetts, 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 First 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 voting group set forth 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 they desire to be represented by Springfield Die Sinkers Lodge No. 330 of International Die Sinkers Conference, or by Federal Labor Union No. 22804, American Federation of Labor, for the purposes of collective bargaining, or by neither.