

In the Matter of BECKWITH MACHINERY COMPANY and INTERNATIONAL
ASSOCIATION OF MACHINISTS, A. F. L.

Case No. 6-R-1062.—Decided February 9, 1945

Reed, Smith, Shaw & McClay, by *Mr. W. D. Armour*, of Pittsburgh, Pa., for the Company.

Mr. A. C. Skundor, of Pittsburgh, Pa., for the Union.

Mr. Jack Mantel, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Association of Machinists, A. F. L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Beckwith Machinery Company, Bradford, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Jerome L. Black, Trial Examiner. Said hearing was held at Bradford, Pennsylvania, on January 5, 1945. 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

Beckwith Machinery Company, a Delaware corporation, is engaged in business in the Commonwealth of Pennsylvania, at Pittsburgh, Bradford, Wilkes Barre, and Harrisburg. At its Bradford plant, which is the one involved in this proceeding, the Company sells and services caterpillar tractors, and construction and oil field equipment.

During the year 1944, the Company purchased raw materials valued in excess of \$200,000, of which amount 90 percent was shipped to its Bradford plant from points outside Pennsylvania. During the same period, the Company sold products valued in excess of \$260,000, of which approximately 10 percent was shipped to points outside Pennsylvania.

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

II. THE ORGANIZATION INVOLVED

International Association of Machinists, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The parties stipulated that on October 8, 1944, the Union advised the Company by letter that it represented a majority of the employees and requested recognition as the exclusive bargaining representative. The Company has refused to grant such recognition.

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.¹

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 Company's plant consists of an office, a parts, and a service department, the latter group being composed of mechanics. The Union contends, in effect, that all employees in the service and parts department, excluding office and supervisory employees, constitute an appropriate unit for the purposes of collective bargaining. The Company would confine the unit to all service department employees, excluding the service manager, whom the Union would include.

The Union would include the service manager for the reason that this employee works with tools, and is therefore a working foreman. The record shows that the service manager, also referred to as foreman of the mechanics, spends approximately 10 to 20 percent of his time in working with the mechanics on various repair jobs, but only

¹ The Board agent reported that the Union submitted 13 authorization cards; that the Company's pay roll for the period ending November 19, 1944, contained the names of 10 employees in the alleged appropriate unit, and that the names of 9 persons appearing on the cards were listed on the pay roll.

in emergency situations. The remaining time is spent in assigning work to all the mechanics and helpers in the service department; he approves all requests for parts; makes a final inspection of all completed jobs; checks and approves all time cards of the service employees. Having full charge of the shop, the service manager has authority effectively to recommend hiring and discharge of employees in his department. Since the service department manager comes within the Board's customary definition of supervisory employees, we shall exclude him.

There are only two employees in the parts department, one of them, Harmon, was designated as manager of that department a month before the hearing. A major portion of the time of both employees is spent performing clerical duties; they also hand out parts which are requisitioned by the service department mechanics; and unload merchandise and place stock into bins. Harmon's duties are substantially the same as those performed by his assistant, Hagborn, and both receive the same rate of pay. From the record, it does not appear that Harmon occupies a supervisory status within our customary definition thereof. Since the duties of the parts department employees are closely allied to those of the employees in the service department, we shall include them in the unit.

We find that all employees in the service and parts departments of the Company's Bradford, Pennsylvania, plant, including the parts manager, but excluding the service manager, office employees, 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 pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

The Union urges that three persons, Hanawalt, Woodell, and Patterson, concerning whom the Union filed a charge with the Board alleging that they have been discriminatorily discharged, be permitted to vote. We shall permit the three persons to cast separate sealed ballots to be opened and counted only if the election turns upon their votes, in which latter event, the final disposition of the representation pro-

ceedings may be deferred until the Board has decided in Case No. 6-C-934 whether or not their discharges were in violation of Section 8 (3) of the Act. Our ruling permitting Hanawalt, Woodell, and Patterson to vote is not to be interpreted as in any way passing upon the legality or illegality of their discharges.²

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 Beckwith Machinery Company, Bradford, 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 Hanawalt, Woodell, and Patterson, and 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 International Association of Machinists, A. F. L., for the purposes of collective bargaining.

² See *Matter of Ardlee Service, Inc.*, 52 N. L. R. B. 1509, and cases cited therein. Cf. *Matter of Entd Cooperative Creamery Association*, Case No. 16-R-1013, Third Supplemental Decision and Certification of Representatives, issued January 13, 1945.