

In the Matter of BETHLEHEM-HINGHAM SHIPYARD, INC. and BETHLEHEM-HINGHAM SHIPYARD INDEPENDENT UNION

Cases Nos. 1-R-2228, 1-R-2229, 1-R-2230, and 1-R-2238.—Decided
March 5, 1945

Mr. Gerald J. Reilly, of Bethlehem, Pa., for the Company.

Mr. Robert A. Zottoli, of Quincy, Mass., for the Union.

Mr. Jack Mantel, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon separate amended petitions duly filed by Bethlehem-Hingham Shipyard Independent Union, herein called the Union, each alleging that a question affecting commerce had arisen concerning the representation of employees of Bethlehem-Hingham Shipyard, Inc., Hingham, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate consolidated hearing upon due notice before John W. Coddaira, Jr., Trial Examiner. Said hearing was held at Boston, Massachusetts, on February 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. The Trial Examiner reserved for ruling by the Board, the Company's motions to dismiss each petition on the ground that the units sought were not appropriate. For reasons hereinafter stated, the motions are hereby denied. 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

Bethlehem-Hingham Shipyard, Inc., a Delaware corporation, operates a shipyard located at Hingham, Massachusetts, where it is en-

gaged solely in the construction of vessels for the United States Navy Department. The shipyard and all shipbuilding facilities are owned by the United States Navy Department, and construction of vessels is under contracts providing for payment on the basis of cost plus a fee. During the period from February 1, 1942, until May 1, 1944, the aggregate value of all materials used by the Company in the construction of vessels at the shipyard, was in excess of \$95,000,000, of which over 90 percent was delivered to the shipyard from points outside the Commonwealth of Massachusetts. All of such materials were used or are destined for use in the construction of such vessels. During the same period, the aggregate of the amounts billed by the Company to the United States Navy Department for work in the construction of such vessels at the shipyard was approximately \$217,700,000. The Company has stipulated to the foregoing facts solely for the purposes of this proceeding.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Bethlehem-Hingham Shipyard Independent Union is an unaffiliated labor organization, admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

The parties stipulated that the Company refused to grant recognition to the Union as the exclusive bargaining representative of certain groups of its employees until the Union has been certified by the Board in appropriate units.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the units hereinafter found appropriate.¹

¹ The Board agent reported that the Union submitted membership applications which were checked against the Company's pay roll for the week ending January 7, 1945. A summary of the report is set forth in the following table.

Case No.	No of employees in unit	No membership applications submitted	No. names on applications appearing on pay roll
1-R-2228.....	149	98	69
1-R-2229.....	12	9	6
1-R-2230.....	744	302	283
1-R-2238.....	28	11	8

We find that questions affecting commerce have 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 UNITS

The Company moved to dismiss the petitions on the ground that the units sought therein by the Union were not appropriate; however, it presented no evidence in support thereof. In the alternative, the Company stated its position as to the constituency of each of the units should the Board overrule its motions. The Union amended its petitions at the hearing to conform to the position taken by the Company in each of the alleged appropriate units, set forth below.² The parties were in dispute only as to the inclusion of investigators in the unit of beach wagon drivers in Case No. 1-R-2229. Since the units requested by the Union, and alternatively agreed upon by the Company, constitute well-defined groups of employees which we deem appropriate for the purposes of collective bargaining, we find no merit in the Company's contention to dismiss the petitions.

We find, in substantial accordance with agreements of the parties, that each of the following constitutes a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

(1) All draftsmen, ship surveyors, blueprint machine operators, transit men, rodmen, trimmers and learner trimmers, tracers and learner tracers, and photographers of the Company, excluding supervisory draftsmen, the contact draftsman, supervisor of blueprint operations, all instructors, 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.

(2) All clerks, stenographers, typists, messengers, and telephone operators of the Company, excluding all employees in department 01 (office of the general manager); all employees in department 02 (department of general yard superintendents), except for messengers and telephone operators (but not including the head telephone operator); all employees in department 12 (industrial relations department); all employees in department 14 (rate-setting department); all employees in department 08 (accounting department); all employees in departments 77 and 78 (plant-protection departments); all supervisory clerks and clerks in charge of divisions and subdivisions of departments; clerks who act as personnel coordinators; all secretaries to department heads, and all other employees who act as secretaries to department

² The employees in the respective units herein found to be appropriate were excluded from a production, maintenance, and warehouse employees unit found appropriate by the Board on January 15, 1944, in *Matter of Bethlehem-Hingham Shipyard, Inc.*, 54 N. L. R. B. 631.

heads, naval architects, and chief engineers; all interviewers; all female personnel coordinators; 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.

(3) All janitors and janitresses of the Company, excluding matrons, who are also referred to as female personal advisers, 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.

As stated above, the Union would include, whereas the Company would exclude investigators from the unit of beach wagon drivers. The Company maintains that the investigators should not be included in the unit solely for the reason that such employees perform duties of a confidential nature. Investigators operate beach wagons in transporting injured employees from their homes to the shipyard for treatment by Company doctors. They also investigate cases where employees are absent from work on sick leave. In both cases, the investigator files a report which is sent to another division of the Company for further investigation. In injury cases, the investigator does not diagnose the injury, but reports the name of the employee, the date of the investigation, and the circumstances surrounding the injury as related by the employee. Where employees are absent, the investigator reports whether or not it is due to injury or illness. If the employee is reported to have been absent without cause, the investigator is not consulted in respect to the disposition of the case. The greater part of the time of the investigator is spent as a chauffeur, not unlike the work of the other beach wagon drivers. None of the information to which the investigators have access relates to labor relations, and consequently, they cannot be said to possess a confidential status warranting their exclusion from the unit sought; we shall therefore include them.

(4) We find that all beach wagon drivers and investigators of the Company, 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, 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 questions concerning representation which have arisen be resolved by elections by secret ballot among the employees in the appropriate units who were employed during the payroll period immediately preceding the date of the Direction of Elec-

tions herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTIONS

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 Bethlehem-Hingham Shipyard, Inc., Hingham, Massachusetts, elections by secret ballot shall be conducted as early as possible, but not later than sixty (60) 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 units 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 those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the elections, to determine whether or not they desire to be represented by Bethlehem-Hingham Shipyard Independent Union, for the purposes of collective bargaining.