

In the Matter of KINNEY ALUMINUM COMPANY and UNITED STEELWORKERS OF AMERICA, KINNEY ALUMINUM DIVISION, LOCAL 2018, C. I. O.

Case No. 21-R-2638.—Decided March 22, 1945

Latham and Watkins, by *Mr. R. W. Lund* and *Mr. F. A. Shannon*, of Los Angeles, Calif., for the Company.

Messrs. Gilbert C. Anaya and *John Despol*, of Maywood, Calif., for the Steelworkers.

Mr. Nelson Taylor, of Los Angeles, Calif., for the Council.

Mr. William F. Jebe, of Los Angeles, Calif., for the Pattern Makers.

Mr. Julius Kirle, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, Kinney Aluminum Division, Local 2018, C. I. O., herein called the Steelworkers, alleging that a question affecting commerce had arisen concerning the representation of employees of Kinney Aluminum Company, Vernon, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William T. Whitsett, Trial Examiner. Said hearing was held at Los Angeles, California, on February 16, 1945. The Company, the Steelworkers, Los Angeles Metal Trades Council, A. F. of L., herein called the Council, and Pattern Makers' Association of Los Angeles and vicinity, Pattern Makers' League of North America, herein called the Pattern Makers, 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. 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 As a result of the parties' agreement at the hearing to the exclusion of one pattern maker employed by the Company, the Pattern Makers withdrew its petition to intervene.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Kinney Aluminum Company is a California corporation with its main office and plant at Vernon, California, where it is engaged in the manufacture of aluminum castings. During the year 1944, the Company purchased raw materials valued at approximately \$2,000,000, of which two-thirds percent came from points outside the State of California. During the same period, the Company sold finished products valued at in excess of \$2,000,000, of which approximately 10 percent was sold and shipped to points outside the State of California.

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

II. THE ORGANIZATIONS INVOLVED

United Steelworkers of America, Kinney Aluminum Division, Local 2018, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Los Angeles Metal Trades Council, 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 Steelworkers and Council as the exclusive bargaining representative of certain of the Company's employees until the Steelworkers or Council 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 Steelworkers 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.

²The Field Examiner reported that the Steelworkers submitted 115 cards; that the names of 66 persons appearing on the cards were listed on the Company's pay roll for the period ending January 8, 1945, which contained the names of approximately 215 employees in the claimed appropriate unit; and that 88 of the cards were dated from October to December 1944, and 27 were undated. The Council submitted 17 designations all of which appeared on the Company's pay roll. Since the Council has made some showing of representation and inasmuch as an election is being conducted, we shall accord the Council a place on the ballot.

IV. THE APPROPRIATE UNIT

The parties are generally agreed that the unit should comprise all production and maintenance employees, including inspectors, production control dispatchers, stock clerks, and truck drivers, but excluding pattern makers, office employees, executives, and all other supervisory employees. They are in disagreement, however, concerning the classifications discussed below.

Draftsman: The Company employs three draftsmen whom the Steelworkers and Council would include and the Company exclude. They have specialized experience and training, are segregated in the machine shop, receive a rate of pay slightly higher than the production employees and report to the machine shop foreman. They do drafting and designing. In view of the technical nature of their duties, we shall exclude them.

Laboratory Technicians: The Company employs three laboratory technicians, whom the Steelworkers and Council would exclude and the Company include. They make routine analysis of metals and work in the same department with inspectors, whom the parties have agreed to include. They report to the chief chemist and chief metallurgist. They are not required to be professionally trained; some laboratory experience or aptitude for the work is considered sufficient qualification. The technicians receive approximately the same rate of pay and have the same working conditions as do the production and maintenance employees. They have voted in a production and maintenance unit in two prior consent elections.³ We shall include them.⁴

We find that all of the Company's production and maintenance employees, including laboratory technicians, inspectors, production control dispatchers, stock clerks, and truck drivers, but excluding draftsmen, pattern makers, office employees, executives, 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

³ Cases Nos. 21-R-2165 and 21-R-2225, November 3, 1943, and December 10, 1943, respectively.

⁴ See *Matter of Edgewater Steel Company*, 56 N. L. R. B. 393; *Matter of Aluminum Company of America*, 52 N. L. R. B. 568.

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.

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 Kinney Aluminum Company, Vernon, California, an election 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 Twenty-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 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 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 they desire to be represented by United Steelworkers of America, Kinney Aluminum Division, Local 2018, C. I. O., or by Los Angeles Metal Trades Council, A. F. of L., for the purposes of collective bargaining, or by neither.