

In the Matter of NA-MAC PRODUCTS CORPORATION and UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, CIO

Case No. 21-R-2572.—Decided March 23, 1945

Mr. J. Wesley Cupp, of Los Angeles, Calif., for the Company.

Mr. Carl Brant, of Los Angeles, Calif., for the UE.

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

Miss Melvern R. Krelow, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical, Radio & Machine Workers of America, CIO, herein called the UE, alleging that a question affecting commerce had arisen concerning the representation of employees of Na-Mac Products Corporation, Los Angeles, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George H. O'Brien, Trial Examiner. Said hearing was held at Los Angeles, California, on February 13, 14, and 20, 1945. The Company, the UE, and Los Angeles Metal Trades Council (A. F. of L.), herein called the MTC, 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

Na-Mac Products Corporation is a California corporation, having its principal office and place of business in Los Angeles, California, where it is engaged in the manufacture and sale of aircraft parts and pneumatic riveting hammers. The Company makes purchases consist-

ing principally of steel and tools, valued in excess of \$10,000, annually, of which approximately 20 percent is obtained from points outside the State of California. The greater part of the Company's products, valued in excess of \$20,000, annually, is 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 Electrical, Radio & Machine Workers of America, 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

On December 21, 1942, the MTC was certified as the exclusive collective bargaining representative for the Company's production and maintenance employees.¹ On February 15, 1943, the Company and the MTC executed a collective bargaining contract which was to remain in full force and effect for 1 year from date, and from year to year thereafter, subject to 30 days' written notice before any anniversary date by either party to amend or abrogate the contract. The contract was automatically renewed on February 15, 1944, for a period of 1 year. On June 6, 1944, the Company and the MTC executed an amendment to the contract modifying certain provisions but not affecting the provisions relating to the expiration or automatic renewal dates. Thereafter, the parties submitted the issues affecting seniority, maintenance of membership, and voluntary check-off to the War Labor Board. On September 14, 1944, the War Labor Board issued its directive. On November 30, 1944, the UE requested the Company to recognize it as the collective bargaining representative for the Company's employees. On December 5, 1944, the Company refused to grant such recognition on the ground that it had a collective bargaining agreement with the MTC. On January 17, 1945, the MTC notified the Company that it desired to effect certain changes in the contract.

The Company contends that its contract with the MTC constitutes a bar to a present determination of representatives. We are of the opinion that the Company's contention is without merit. The MTC has enjoyed contractual relations with the Company, as bargaining representative of the employees involved herein since 1942, at which

¹ *Matter of Na-Mac Products Corporation*, 44 N. L. R. B. 1400.

time it was certified by the Board; there are no issues presently pending before the War Labor Board in connection with the administration of the contract. From the foregoing, the instant case is to be clearly differentiated from those recent cases involving resort to the procedures of the War Labor Board, in which we refused to direct elections.² Since the UE's representation claim was made prior to the automatic renewal date of the contract, we find that the contract between the Company and the MTC does not constitute a bar to a present determination of representatives pursuant to the petition filed herein.

A statement of the Trial Examiner, introduced into evidence after the hearing by agreement of the parties, indicates that the UE 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 UE and the MTC agree that all production and maintenance employees of the Company excluding office workers, executives, and foremen, constitute an appropriate unit. The Company takes no definite position with respect to the unit.

We find that all production and maintenance employees of the Company, excluding office workers, executives, and foremen, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.⁴

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.

² See *Matter of Allis Chalmers Mfg. Co.*, 50 N. L. R. B. 306; *Matter of Kennecott Copper Corporation, Nevada Mines Division*, 51 N. L. R. B. 930; *Matter of Aluminum Company of America, Vancouver, Washington*, 53 N. L. R. B. 593

³ The Trial Examiner reported that the UE presented 83 designations, 72 dated in November and December 1944, and January and February 1945, 11 undated, of which 65 bore the names of persons appearing on the Company's pay roll of February 16, 1945, which contains the names of 137 employees. The Trial Examiner also reported that the MTC submitted 12 designations, all dated in February 1945, of which 10 bore the names of persons appearing on the Company's pay roll.

⁴ This is the same unit as that for which the MTC was previously certified pursuant to a stipulation for certification of representatives upon consent election. See footnote 1, *supra*.

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 Na-Mac Products Corporation, Los Angeles, 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 Electrical, Radio & Machine Workers of America, CIO, or by Los Angeles Metal Trades Council (A. F. of L.), for the purposes of collective bargaining, or by neither.