

IN the Matter of A. O. SMITH CORPORATION (KANKAKEE WORKS), EMPLOYER and INTERNATIONAL BROTHERHOOD OF BLACKSMITHS, DROP FORGERS AND HELPERS, AFL, PETITIONER and INTERNATIONAL ASSOCIATION OF MACHINISTS, PETITIONER

Case Nos. 13-RC-85 and 13-RC-102.—Decided August 17, 1948

DECISION
AND
DIRECTION OF ELECTIONS

Upon separate petitions duly filed, a consolidated hearing was held before a hearing officer of the National Labor Relations Board. For reasons hereinafter stated, the motions of the Employer and the Intervenor for the dismissal of the petition of the IAM on the ground that it seeks an inappropriate unit, are denied. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members.*

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.
2. The labor organizations named below claim to represent employees of the Employer.
3. The Employer refuses to recognize either the International Brotherhood of Blacksmiths, Drop Forgers and Helpers, AFL, herein called the AFL, or the International Association of Machinists, herein called the IAM, as the exclusive bargaining representative of any of the employees of the Employer until either has been certified by the Board in an appropriate unit.

The Employer and the Fabricated Metal Workers Local Union No. 24158, herein called the Intervenor, urge their supplemental bargaining agreement as a bar to both petitions. The supplemental

*Chairman Herzog and Members Houston and Reynolds.

78 N. L. R. B., No. 144.

agreement between the Employer and the Intervenor covering only the subject of wage rates was executed on September 8, 1947, and was designed to supplement, in accordance with the provisions in the basic bargaining agreement since reopened, the original wage rates therein set forth. Although the supplemental agreement was executed prior to any demands by the Petitioners for recognition, such agreement was not a full collective bargaining agreement containing the usual substantive provisions concerning conditions of employment. We have recently held that such a supplemental agreement does not achieve such stability in labor relations that it should operate as a bar to a representation proceeding.¹ Accordingly, we find that the present supplemental agreement is not a bar to these proceedings.

We find that a question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The AFL, in agreement with the Employer and Intervenor seeks, consistent with the present contract unit, a unit composed of all production and maintenance employees, including group leaders, janitors, and shop clerical employees,² but excluding outside truck drivers, stationary boiler firemen, and water tenders, employees in the Personnel, Purchasing, Sales, Production Control, Traffic, Accounting and Engineering Departments, and all supervisors. The IAM, on the other hand, seeks two separate and distinct craft units to be carved out of the general production and maintenance unit, and consisting of (1) all toolroom employees in Department 13 and those employees in the General Maintenance Department (No. 11) who are involved in the overhauling, dismantling, and repair of machines, excluding supervisors and all other employees of the Company; and (2) all electricians in Department No. 11, excluding supervisors and all other employees of the Company.

The principal business at the Employer's plant at Kankakee, Illinois, is the manufacture of water heaters. The Maintenance Division consists of several departments of which one is Department 13, known as the tool and machine room, and another is Department 11, known as General Maintenance. All employees in Department 13 are journeymen tool and die makers who have served their apprenticeships and are recognized as skilled mechanics. They work in the toolroom separated from the rest of the plant by a partition and have separate supervision. They fabricate and repair parts, tools, and dies. Em-

¹ *Matter of Laclede Gas Light Co.*, 76 N. L. R. B 199.

² Included in this category are shipping and receiving clerks, parts department clerks, and material handlers.

employees of varying skills are located in Department 11, General Maintenance. Among these employees are men who do the work of millwrights, electricians, pipe fitters, carpenters, and painters. They are recognized generally as skilled workmen.³ The employees in General Maintenance referred to as millwrights dismantle defective machinery, have the broken parts repaired or replaced by the employees in the tool and machine room and thereafter reassemble and put the machinery in working order. The IAM contends and we find that those employees in General Maintenance who do the work of millwrights may, together with the tool and die makers, constitute a craft unit.

The employees in General Maintenance who do electrical work are journeymen electricians who devote their time to the overhauling, maintenance, and repair of motors and other electrical equipment in the plant. The IAM seeks to represent these electricians in a separate craft unit.

We have frequently held that millwrights, machinists, and tool and die makers constitute a craft group which may be appropriately included for collective bargaining purposes in a production and maintenance unit or in a separate unit.⁴ Likewise, electricians have been generally recognized as an appropriate craft group.⁵ Under these circumstances, we believe that they should now be given an opportunity to demonstrate in a Board election whether they desire representation on a separate basis or as part of the production and maintenance unit. Accordingly, we shall make no final unit determination at the present time but shall direct elections among the following groups of employees at the Employer's Kankakee, Illinois, plant:

(a) All toolroom employees in Department 13 and employees in the General Maintenance Department (No. 11) who are involved in the overhauling, dismantling, and repair of machines,⁶ excluding all supervisors and all other employees of the Company;

(b) All electricians in Department 11, excluding supervisors and all other employees of the Company; and

(c) All remaining production and maintenance employees at the Employer's Kankakee, Illinois, plant, including group leaders, janitors, and shop clerical employees,⁷ but excluding outside truck drivers,

³ The personnel classification of each employee in General Maintenance, regardless of skill, is designated merely as Maintenance Class A or Class B.

⁴ See *Matter of Dazey Corporation*, 77 N. L. R. B., No. 66; *Waldorf Paper Products*, 76 N. L. R. B. 127; *Matter of American Can Co.*, 75 N. L. R. B. 1127.

⁵ *Matter of Consolidated Vultee Aircraft Corp.*, 75 N. L. R. B. 1276, *Matter of Goodrich Chemical Co.*, 75 N. L. R. B. 1142.

⁶ Included herein are employees classified as Maintenance Class A and B who perform the work of millwrights.

⁷ See footnote No. 2.

stationary boiler firemen and water tenders, and employees in the Personnel,⁸ Purchasing, Sales, Production Control, Traffic, Accounting and Engineering Departments and all supervisors.

If the majority of employees in voting group (a) select the IAM, they will be taken to have indicated their desire to constitute a separate appropriate unit. Likewise, if the majority of employees in voting group (b) select the IAM, they will be taken to have indicated their desire to constitute a separate appropriate unit.

DIRECTION OF ELECTIONS⁹

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, separate elections by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of the Regional Director for the Region in which this case was heard, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations—Series 5, among the employees in the voting groups described in paragraph numbered 4, above, who were employed during the pay-roll period immediately preceding the date of this Direction of Election, including employees who did not work during said pay-roll period because they were ill or on vacatiton or temporarily laid off, but excluding employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, and also excluding employees on strike who are not entitled to reinstatement, to determine:

(1) Whether the employees in voting group 4 (a) desire to be represented, for purposes of collective bargaining, by International Association of Machinists, or by International Brotherhood of Blacksmiths, Drop Forgers and Helpers, AFL, or by Fabricated Metal Workers Local Union No. 24158, or by none;

(2) Whether the employees in voting group 4 (b) desire to be represented, for purposes of collective bargaining, by International Association of Machinists, or by International Brotherhood of Blacksmiths, Drop Forgers and Helpers, AFL, or by Fabricated Metal Workers Local Union No. 24158, or by none; and

(3) Whether the employees in voting group 4 (c) desire to be represented, for purposes of collective bargaining, by International Brotherhood of Blacksmiths, Drop Forgers and Helpers, AFL, or by Fabricated Metal Workers Local Union No. 24158, or by neither.

⁸ Guards are carried as part of Personnel and are thereby excluded.

⁹ Any participant in the election directed herein may, upon its prompt request to, and approval thereof by, the Regional Director, have its name removed from the ballot.