

In the Matter of MARIETTA METAL PRODUCTS COMPANY, EMPLOYER *and*
WALTER C. BARTMESS, PETITIONER *and* LOCAL 4040, UNITED STEEL-
WORKERS OF AMERICA, CIO, UNION

Case No. 9-RD-28.—Decided November 4, 1948

DECISION

AND

DIRECTION OF ELECTION

Upon a petition for decertification duly filed, a hearing was held before a hearing officer of the National Labor Relations Board. 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 Petitioner asserts that the Union is no longer the bargaining representative of the employees of the Employer as defined in Section 9 (a) of the Act.

3. On August 1, 1947, the Union was designated as bargaining representative of the employees in the unit described below. On September 19, 1947, the Employer and the Union executed a contract which became effective on September 22, 1947, and expired on August 19, 1948. The Employer presently refuses to recognize the Union.¹

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

4. The following employees of the Employer constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9 (b) of the Act:

*Chairman Herzog and Members Houston and Murdock.

¹ Section 9 (c) (1) (A) (ii) of the Act prescribes alternative requisites to a petition for decertification. One of those requisites is here present, since the Union has been certified. *Matter of Reliable Tool Co., Inc.*, 79 N. L. R. B. 1109.

All production and maintenance employees of the Employer, excluding office and clerical employees, professional employees, guards, watchmen, and supervisors.

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, an election 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 Ninth Region, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations—Series 5, as amended, among the employees in the unit found appropriate 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 vacation or temporarily laid off, 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, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented, for purposes of collective bargaining, by Local 4040, United Steelworkers of America, CIO.²

² Inasmuch as the Union is not in compliance with Section 9 (f), (g), and (h), we shall certify it if it wins the election, provided that at that time it is in compliance. Absent such compliance, the Board will only certify the arithmetical results of the election.