

In the Matter of ACORN PRODUCTS CORPORATION, EMPLOYER and LOCAL 155, INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, UAW-CIO, PETITIONER

Case No. 7-RC-449.—Decided April 28, 1949

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before Francis E. Burger, 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.¹

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-member panel [Chairman Herzog and Members Reynolds and Gray].

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

1. The Employer is a Michigan corporation engaged at Warren Township, Macomb County, Michigan, in manufacturing automobile spring suspension parts. During the year 1948 the Employer purchased raw materials, consisting primarily of cold rolled steel bars, in the value of \$693,500, approximately 70 percent of which was shipped from points outside the State of Michigan. During the same year the Employer sold finished products amounting to \$844,137, approximately 5 percent of which was shipped by the Employer to points outside the State. Of the remaining 95 percent of its finished products, approximately 50 percent was shipped within the State to its parent company, Pressed Metals of America, Inc., and 50 percent was shipped, pursuant to instructions by the parent company, to customers within the State. The Board has found Pressed Metals of America, Inc., to be engaged in commerce.²

¹ At the hearing the Petitioner moved to dispense with the hearing and dismiss the petition, on the ground that the Employer had distributed a letter among its employees stating that it was willing and, in fact, demanded an election to determine whether its employees wanted to be represented by the Petitioner. Upon the Employer's refusal to consent to an election before a determination by the Board, the Petitioner withdrew its motion. Thereafter, the Employer moved to strike the Petitioner's motion and to remove all reference to it from the record. The hearing officer referred this motion to the Board. As no sufficient reason appears for granting the Employer's motion, it is hereby denied.

² *Matter of Pressed Metals of America, Inc.*, 50 N. L. R. B. 9; 59 N. L. R. B. 360.

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

2. The labor organization named below claims to represent employees of the Employer.

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

All employees of the Employer at its Warren Township, Michigan, plant, including the tool grinder leader,³ but excluding clerical and confidential employees, guards, the chief inspector, and all other supervisors as defined in the Act.

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 Seventh 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 the 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 the purposes of collective bargaining, by Local 155, International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO.

³ The Petitioner seeks to include the tool grinder leader. The Employer takes no position as to his inclusion. There are three other employees in the tool grinding room; one on each shift. The tool grinder leader is the oldest and most competent employee, who instructed the others when they were hired. At present he spends about 95 percent of his time in manual work. He has no authority to hire, discharge, or discipline. Although the Employer stated that his recommendation for hiring, laying off, or transferring employees from one shift to another, would be given consideration, no occasion for such a recommendation has arisen. In the light of the entire record, we find that he is not a supervisor within the meaning of the Act. We shall include him in the unit. *Matter of General Steel Tank Company*, 81 N. L. R. B. 1345; *Matter of Sampsel Time Control, Inc.*, 80 N. L. R. B. 1250.