

In the Matter of AIR METALS, INC.,¹ EMPLOYER and INTERNATIONAL ASSOCIATION OF MACHINISTS, DISTRICT LODGE No. 69, INDEPENDENT,¹ PETITIONER

Case No. 19-RC-275.—Decided May 27, 1949

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before Robert E. Tillman, 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-member panel [Members Reynolds, Murdock, and Gray].

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 involved claim to represent employees of the Employer.²

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 Petitioner requests a unit of all employees of the Employer, excluding truck drivers and office employees,³ guards, professional employees, and supervisors. The Employer takes no position with respect to the unit question. The Intervenor, who currently represents the sheet metal workers both at the Employer's plant at Paine Field and at The Tricoach Company,⁴ is in general agreement with the Petitioner but differs from the Petitioner in certain respects. The

¹ The names of the Employer and the Petitioner appear as amended at the hearing.

² Auto Sheet Metal Workers, Local Union No. 387, A. F. L., was permitted to intervene upon the basis of a current contractual interest.

³ The petition was amended at the hearing by adding truck drivers and office employees to the categories excluded.

⁴ A partnership of Robert L. Newell and Richard B. Newell, two of the four principal officers and stockholders of Air Metals, Inc.

Intervenor would include in the proposed unit office employees and truck drivers of the Employer but would exclude from the unit four employees performing certain machinists' work at the Employer's Paine Field Plant.⁵

The four machinists whose exclusion from the unit is now sought by the Intervenor apparently have been or are currently being represented by the Intervenor as part of the unit defined in its contract with the Employer. They are listed on the Employer's pay roll as journeymen or production workers but their duties are entirely those of a machinist. Thus, two of the employees operate lathes producing rivet dies, small fittings, and other products which aid in the production or become integral parts of sheet metal parts and assemblies. The other two machinists do general maintenance work including erecting, dismantling, checking, and repairing production machines. Assuming *arguendo* that these employees might be separately represented on a craft basis, they may also constitute part of a larger production and maintenance unit.⁶ As no labor organization is seeking to represent these employees as a separate unit, we shall include them in the unit hereinafter found appropriate.⁷

The Petitioner seeks to exclude the single truck driver employed at the present time. The truck driver works out of the plant at Paine Field and devotes all of his time to hauling various supplies for use at the plant and in delivering finished products to the Boeing company at Seattle. Often the truck driver will deliver semi-finished work to subcontractors, later picking up his material and returning it to the Employer's plant. The interests of the truck driver under the circumstances do not appear separate from the interests of the production workers. The Board has on many occasions included truck drivers in units of production and maintenance employees where, as here, no other labor organization sought at the time to represent them in a separate unit.⁸ In view of the above circumstances, including the fact that were we to exclude this employee from the unit of production and maintenance employees, he could not by himself constitute an appropriate unit, and thus would be left entirely without an opportunity for representation, we shall include the truck driver in the unit hereinafter found appropriate.

We find that all employees of the Employer at its Paine Field, Washington, plant, including truck drivers, but excluding office

⁵ Another contention of the Intervenor was that the employees of The Tricoach Company should be included in the unit. We find it unnecessary to consider this contention, because the issue appears moot by the transfer of such employees to the Employer, which transfer, we assume, was accomplished as planned on or about May 1, 1949

⁶ *Matter of Borg Warner*, 72 N. L. R. B. 1020.

⁷ *Matter of Lynchburg Transit Company*, 79 N. L. R. B. 546

⁸ *Matter of Glazer Steel Corp.*, 81 N. L. R. B. 530.

employees,⁹ guards, professional employees, and supervisors constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of 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 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, 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 they desire to be represented, for purposes of collective bargaining, by International Association of Machinists, District Lodge No. 69, Independent, or by Auto Sheet Metal Workers, Local Union No. 387, A. F. L., or by neither.

⁹ We shall, in conformity with well-established Board principle, exclude office employees from the unit of production and maintenance employees here found appropriate. *Matter of Standard Oil Company (Indiana)*, 80 N. L. R. B. 1275.