

In the Matter of HUDSON MOTOR CAR COMPANY, EMPLOYER *and* INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, CIO, LOCAL 1015,¹ PETITIONER

Case No. 7-UA-2136.—Decided December 7, 1949

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, a hearing in this case was held at Detroit, Michigan, before Harold L. Hudson, 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-member panel [Chairman Herzog and Members Reynolds 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. As the Petitioner is the representative of the employees described below, within the meaning of Section 9 (a), and as the Employer currently recognizes the Petitioner as such representative, we find that no question affecting commerce exists concerning the representation of employees of the Employer in the unit sought by the Petitioner.

3. The Petitioner has shown that 30 percent or more of said employees, within the meaning of Section 9 (e) (1) of the Act, desire to authorize Petitioner to make an agreement with the Employer making membership in Petitioner a condition of employment.

4. The parties agree, and we find, that the following unit is appropriate for the purposes of Section 9 (a) and (e) (1) of the Act:

All office and clerical employees of Hudson Motor Car Company, Detroit, Michigan, in the Jefferson, Charlevoix, and Gratiot plants,

¹ The name of the Petitioner appears as amended at the hearing.

including comptometer operators, labor auditors, buyers' secretaries, stenographers and typists (Master Mechanics Division), and telephone and telegraph operators, but excluding cost estimators and corporate tax clerks (Accounting Division), time-study engineers, salary pay-roll clerks, general audit employees (Accounting Division), assistant supervisors (Planning Division), buyers, all employees in the Cost Estimating and Personnel Divisions, supervisors' secretaries, leaders, and all other supervisors as defined in the Act.

5. The parties disagree as to the voting eligibility of probationary and laid-off employees, the Petitioner contending that they should not be allowed to vote and the Employer contending that they should.

As to the probationary employees, the Board has uniformly held that they have sufficient interests in common with regular employees of the same classifications to warrant their participation in an election among such employees.² We shall, accordingly, permit the probationary employees to vote in the election hereinafter directed.

As to the laid-off employees, the Board has held that the criterion for determining their eligibility to vote is whether or not, at the time of the election, they have reasonable expectancy of further employment with the Employer in the near future.³ We are of the opinion that these laid-off employees do not have such a reasonable expectancy. Although the contract between the Employer and the Petitioner provides that laid-off employees retain their seniority automatically for 6 months, and thereafter for 1½ years by periodic notification to the Employer, the Employer is permitted to hire new employees without recalling laid-off ones or notifying the Petitioner. Furthermore, the Employer gives primary consideration to ability and fitness, rather than seniority, in filling vacancies, and there is no general practice of recalling laid-off employees. Under these circumstances, although the possibility exists that a laid-off employee might be rehired the *probability* is too remote to justify permitting him to vote at this time.

DIRECTION OF ELECTION

Pursuant to Section 9 (e) (1) of the National Labor Relations Act, an election by secret ballot shall be conducted as early as possible, but not later than thirty (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

² *Beattie Manufacturing Company*, 77 NLRB 361.

³ *Bethlehem Steel Company, Shipbuilding Division*, 86 NLRB 577.

and Regulations, among the employees of Hudson Motor Car Company, in the unit found appropriate in Section 4 above, who were employed during the pay-roll period immediately preceding the date of this Direction, 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 authorize International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, CIO, Local 1015, to make an agreement with Hudson Motor Car Company requiring membership in the aforesaid labor organization as a condition of employment in such unit.