In the Matter of MINNEAPOLIS-MOLINE COMPANY, EMPLOYER AND PETITIONER *and* LOCAL 814, INTERNATIONAL UNION OF ELECTRICAL, RADIO & MACHINE WORKERS, C. I. O., PETITIONER *and* LOCAL 814, UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA

Cases Nos. 13–RM–71 and 13–RC–993.—Decided April 13, 1950

DECISION

AND

DIRECTION OF ELECTION

Upon petitions duly filed and consolidated, a hearing was held before Robert Ackerberg, hearing officer. 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 Houston, Reynolds, and Murdock].

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 certain employees of the Employer.[1]

3. The question concerning representation:

On May 25, 1948, Local 814, UE, as an affiliate of the CIO, executed an agreement with the Employer, covering employees involved in this case to be in effect until May 31, 1949, and thereafter for yearly periods unless terminated by notice at least 60 days before May 31 of any year. This contract was subsequently modified in several respects by amendments. The last amendment entered into on July 15, 1949, provided, *inter alia*, that the terminal date of the contract be changed to September 1, 1950. Local 814 UE contends that this contract operates as a bar to a present determination of representatives. Local 814, IUE–CIO contends that the contract is not a bar because as the result of a schism

[1] These labor organizations are Local 814, International Union of Electrical, Radio & Machine Workers, C. I. O., hereinafter called Local 814 IUE–CIO, and Local 814, United Electrical, Radio and Machine Workers of America, hereinafter called Local 814 UE.

in Local 814, UE, a substantial number of its former members have affiliated with the IUE–CIO. The Employer takes the position that it does not know which union represents its employees and it therefore is unwilling to bargain with either until one or the other has been certified by the Board as the exclusive representative of its employees.

The record shows that on November 2, 1949, the CIO at its national convention expelled the UE. On November 10, at a regular membership meeting of Local 814, then affiliated with the UE, a motion to disaffiliate from the UE and affiliate with the IUE–CIO was passed by unanimous vote. The meeting which was attended by a substantial number of members had been publicized 2 days in advance by numerous notices on the plant bulletin boards and by oral notification through shop stewards to individual members. Shortly after the meeting, Local 814 applied for and received a charter from the IUE–CIO. All the officers of the former UE Local 814 were elected by the membership of the new Local and have continued to serve in their respective capacities as officers of Local 814, IUE–CIO. Uncontroverted evidence indicates that since November 10, Local 814, IUE–CIO has obtained signed membership cards from a large majority of the Employer's employees, who had been members of Local 814, UE. It has also held monthly meetings since that date as had Local 814, UE.

These circumstances reveal that there has been a schism in the contracting union's organization which we find, for reasons stated in the *Boston Machine Works* case,[2] removes the current contract as a bar to an immediate determination of representatives.[3]

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

All production and maintenance employees employed at the Employer's Moline, Illinois, plant, including inspectors, outside truck drivers, garage mechanics, garage repairmen, shop janitors,[4] but ex-

[2] *Boston Machine Works Company*, 89 NLRB No. 59.

[3] Also for the reasons stated in the *Boston Machine Works* case, we do not here pass upon the property rights or the collective bargaining duties of the parties with reference to the current contract.

[4] Contrary to the positions taken by the Petitioner and the Intervenor, the Employer contends that the outside truck drivers, garage mechanics, garage repairmen, and shop janitors should be excluded on the alleged ground that these employees have not been included in the contract unit. The mere fact that these employees, whose interests clearly lie with the other production and maintenance employees, have not been included in the contract unit, does not render their inclusion in a production and maintenance unit inappropriate. *Benner Tea Company*, 88 NLRB 1409.

cluding time-study men, checkers, guards, watchmen,[5] plant engineers, experimental and engineering employees, office, clerical, and technical employees, patternmakers, shop clerical employees, foremen, assistant foremen, and all 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 Region in which this case was heard, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations, among the employees in the unit found appropriate in paragraph numbered 4, above, who were employed during the payroll period immediately preceding the date of this Direction of Election, including employees who did not work during said payroll 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 Local 814, International Union of Electrical, Radio & Machine Workers, C. I. O.,[6] or by Local 814, United Electrical, Radio and Machine Workers of America, or by neither.

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[5] By Order dated July 19, 1950, the Board found, upon the basis of facts submitted, that the watchmen herein are in fact guards.

[6] We find no merit to the contention of the Intervenor that insofar as the two labor organizations are designated on the ballot, the Petitioner should not be permitted to use the same local number as the Intervenor, for the reasons stated in *General Motors Corporation, et al.*, 88 NLRB 450.