

In the Matter of SPENCER LENS COMPANY *and* OPTICAL WORKERS
ORGANIZING COMMITTEE, C. I. O.

Case No. 3-R-858

SUPPLEMENTAL DECISION

AND

AMENDED CERTIFICATION OF REPRESENTATIVES

April 2, 1945

On October 12, 1944, the National Labor Relations Board issued a Decision and Direction of Election in the above-entitled proceeding.¹ On November 11, 1944, the Board issued a Certification of Representatives in this proceeding, certifying the Optical Workers Organizing Committee, C. I. O., herein called the C. I. O., as the exclusive bargaining representative of all production and maintenance employees at the Buffalo, New York, plants, located on Eggert Road and on Doat Street, of Spencer Lens Company, herein called the Company, excluding office and clerical employees, militarized guards, technicians, metal polishers and plating employees in Departments 7 and 14, and all supervisory employees.

During collective bargaining negotiations that followed between the Company and the C. I. O., Metal Polishers, Buffers, Platers, and Helpers International Union, Local 18, AFL, herein called Local 18, asserted the right to represent all the Company's employees in Departments 7 and 14, while the C. I. O. took the position that the certification of November 11, 1944, gave it authority to represent certain helpers and maintenance employees in those departments. Faced with these conflicting claims to representation, the Company, On December 21, 1944, filed a letter with the Board requesting that the record herein be reopened for the purpose of adducing evidence concerning the exclusion of "metal polishers and plating employees in Departments 7 and 14" from the unit described in the certification, and for clarification of the certification. On December 30, 1944, the Board issued a notice to all parties to show cause why the Company's request should not be granted. None of the parties having responded

¹ *Matter of Spencer Lens Company*, 58 N. L. R. B. 953.

61 N. L. R. B., No. 34.

to that notice, the Board, on January 16, 1944, issued an order granting the Company's request.

Pursuant to the Board's order, a hearing was held at Buffalo, New York, on February 6, 1945, before Francis X. Helgesen, Trial Examiner. The Company, the C. I. O., and Local 18 appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

SUPPLEMENTAL FINDINGS OF FACT

The Company is engaged in the manufacture of precision and optical instruments. At its Eggert Road plant are located the departments producing instrument parts, while at the Doat Street plant the finished parts are assembled into complete instruments. Departments 7 and 14 are located in adjoining buildings in the Eggert Road plant and together are set apart from the remaining departments located in that building. Department 7, with 37 employees, does all the polishing and finishing of parts, and Department 14, with 12 employees, does all the plating and enameling. There is an assistant foreman in charge of the operations of each department with one foreman having overall supervision of both departments.

Department 7—polishing and finishing.

Among the employees in this department are 14 wheel polishers and buffers and 16 lathe filers and polishers. All these employees are engaged in actual polishing, requiring great skill, although in varying degree. There is 1 sand blaster, who also does actual polishing with a sand oven. A wheel setter keeps the polishing wheels in condition and, after each operation, resets them with abrasives and glue. Four filing and burring employees use files, lap wheels, and metal discs, to remove burs and break edges, either before or after polishing, as a part of the finishing process. Finally, there is a racking screw employee whose duty it is to place screws in trays for inspection purposes before or after polishing and then to remove them.

Department 14—plating and enameling.

In this department there are four platers and an apprentice plater. These are highly skilled workmen who immerse wired parts into chemical baths to enamel, chrome, nickel, or anodize them. They direct the electrical currents through the baths and control the time of the process. These platers are assisted by six plating, wiring, and racking helpers, who attach copper wires to the various parts and

arrange them in proper racks which hold the metal parts when placed in the chemical baths. Lastly, there is a material handler, who places materials on the benches for the wiring helpers, obtains materials for the platers from the stockroom as needed, and keeps the plating racks properly coated and in repair.

The C. I. O. contends that under the exclusion in the Board's appropriate unit finding, which reads in part "metal polishers and plating employees in Departments 7 and 14," only three categories of employees were encompassed, i. e., (1) polishers and buffers, (2) filers and polishers, and (3) platers. It argues that since some of the employees in these departments voted in the election as directed by the Board, some of them must be included among the employees for whom the C. I. O. has been certified.² Local 18 urges that all employees in Departments 7 and 14 be excluded because their work is integrated and they have similar interests with respect to collective bargaining. The Company takes a neutral position.

The record clearly establishes that in each of the two departments in question all employees work in coordination as a functional unit carrying out a complete and separate part of the production business of the Company. Although different degrees of skills are required of the various employees, each of them is an essential part of the unit devoted to polishing and finishing, or plating and enameling, as the case may be. In view of the functional integration of the duties performed by all employees in Departments 7 and 14, their similarity of interests arising from similar working conditions and supervision, and the entire record in the case, we are of the opinion that all employees in Departments 7 and 14 are properly included in the phrase "metal polishers and plating employees in Departments 7 and 14," and we shall amend our certification, *nunc pro tunc*, so as to exclude all these employees from the appropriate unit.³

AMENDED CERTIFICATION OF REPRESENTATIVES ⁴

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Sections 9 and 10, of National Labor Relations Board Rules and Regulations—Series 3, as amended,

² The C. I. O. defeated the Scientific Instrument Workers of America, Local 20, Division of Metal Polishers, Buffers, Platers and Helpers International Union, by a plurality of 434 votes. The outcome of the election could not have been affected by votes cast by any of the 49 employees in Departments 7 and 14. Local 18 did not appear on that ballot and appeared at the original hearing only to preserve its interest among the employees in Departments 7 and 14.

³ *Matter of Cleveland Pneumatic Aeorol, Inc.*, 55 N. L. R. B. 1269.

⁴ This is not to be construed as a recertification but as an amendment, *nunc pro tunc*, of the certification issued on November 11, 1944.

IT IS HEREBY CERTIFIED, that Optical Workers Organizing Committee, C. I. O., has been designated and selected by a majority of all production and maintenance employees at the Buffalo, New York, plants, located on Eggert Road and on Doat Street, of Spencer Lens Company, excluding office and clerical employees, militarized guards, technicians, all employees in Departments 7 and 14, and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, as their representative for the purposes of collective bargaining, and that, pursuant to Section 9 (a) of the Act, the said organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.