

In the Matter of AMERICAN AIR FILTER COMPANY, INC. and INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, C. I. O.

*Case No. 9-R-1733.—Decided April 17, 1945*

*Messrs. T. M. Galphin, Jr., and W. M. Reed, both of Louisville, Ky., for the Company.*

*Messrs. L. Leonard and Jess B. Moss, both of Louisville, Ky., for the UAW-CIO.*

*Mr. J. Darlington Raine, of Louisville, Ky., for the Independent.*

*Mr. Louis Monas, of counsel to the Board.*

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, C. I. O., herein called the UAW-CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of American Air Filter Company, Inc., Louisville, Kentucky, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Herbert J. Nester, Trial Examiner. Said hearing was held at Louisville, Kentucky, on March 9, 1945. The Company, the UAW-CIO, and United Dust Control Workers, herein called the Independent, appeared and participated, were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. At the hearing, the Trial Examiner reserved ruling on the Company's motion to dismiss the petition. For reasons set forth in Section IV, *infra*, this motion is denied. 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:

61 N. L. R. B., No. 87.

## FINDINGS OF FACT

## I. THE BUSINESS OF THE COMPANY

American Air Filter Company, Inc., a Delaware corporation having its principal place of business and plants at Louisville, Kentucky, is engaged in the manufacture of air filtration and dust collection equipment for civilian and Government use. During 1944, the Company utilized raw materials valued in excess of \$2,000,000, 99 percent of which originated from sources outside the State of Kentucky. During the same period, the Company manufactured finished products valued in excess of \$8,000,000, 95 percent of which was shipped to points outside that State.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATIONS INVOLVED

International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

United Dust Control Workers is an unaffiliated labor organization admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to either the UAW-CIO or the Independent as the exclusive bargaining representative of certain of its employees until the UAW-CIO or the Independent has been certified by the Board in an appropriate unit.

A statement of a Board Field Examiner, introduced into evidence at the hearing, indicates that the UAW-CIO represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup>

We find that a question affecting commerce has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

## IV. THE APPROPRIATE UNIT

The UAW-CIO contends that the appropriate unit should consist of all production and maintenance employees of the Company's four

<sup>1</sup> The Field Examiner reported that the UAW-CIO submitted 276 authorization cards, 267 of which bore the names of persons appearing on the Company's pay roll of February 5, 1945, containing the names of 530 employees in the unit alleged by the UAW-CIO to be appropriate.

The Independent submitted 60 authorization cards, 58 of which bore the names of persons appearing on the above-mentioned pay roll.

plants with certain agreed inclusions and exclusions. The Company urges as appropriate two separate units, one embracing employees of plants 1 and 3, and the other, employees of plants 2 and 5. The Independent takes no position with respect to the appropriate unit.

The Company operates four production plants in Louisville, Kentucky, all located within a radius of 1½ miles. The land, buildings, and equipment of plants 1 and 3 are owned by the Company. It occupies plant 2 under a lease terminating the end of 1945, and it has possession of plant 5 as a monthly tenant.<sup>2</sup> Plants 1 and 3 employ about 380 persons,<sup>3</sup> and produce and assemble, for the most part, heavy air filters for industries engaged in war production; some of their products are purchased by the Government for naval use. Plants 2 and 5 employ approximately 140 persons.<sup>4</sup> Plant 2 produces military aircraft air filters and assembles parts furnished by plant 5 which performs some light assembly work, but is operated principally as an adjunct to plant 2.

The Company argues that the activities at plants 2 and 5 are temporary since it does not anticipate continuing them after the war, that the operations at plants 1 and 3 are permanent, and that two separate units are consequently appropriate. However, the UAW-CIO has extended its organizational activities among the employees in the Company's four plants. So-called "new" employees have been engaged at plant 2 since its operations were expanded in 1942, and at plant 5 since that plant was acquired in 1943; in 1942 and 1943 some of the older employees were transferred to these plants from plant 1. Moreover, inasmuch as the date of the war's termination is uncertain, the Company's conclusion that operations at plants 2 and 5 are temporary is not entirely warranted. We note, furthermore, that wage scales in all plants do not differ to any great extent, and that job classifications are similar. One production manager is in charge of production at all four plants, assisted by an assistant superintendent in charge at each plant and one personnel manager supervises a common personnel office for all four plants. Upon the entire record, we are convinced that a single four-plant unit of all production and maintenance employees of the Company is appropriate for the purposes of collective bargaining.

We, accordingly, find that all production and maintenance employees of the Company's four plants at Louisville, Kentucky, including the assistant head janitor,<sup>5</sup> factory clericals, guards,<sup>6</sup> leadmen,

<sup>2</sup> Plants 1 and 2 were in operation before the commencement of the war. In 1942, the operations of plant 2 were expanded, and plant 3 was acquired, plant 5 was acquired late in 1943.

<sup>3</sup> These plants do not employ any women workers in production operations.

<sup>4</sup> Plant 2 has about 125 employees, 65 to 70 of whom are women, plant 5 employs 15 persons, 7 or 8 of whom are women.

<sup>5</sup> It appears that this employee is not supervisory.

<sup>6</sup> Although armed and uniformed, they are not militarized; nor does the evidence reveal that they are deputized.

and inspectors,<sup>7</sup> but excluding office clerical employees, the laboratory engineer apprentice, foremen and assistant foremen, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein,<sup>8</sup> subject to the limitations and additions set forth in the Direction.<sup>9</sup>

#### DIRECTION OF ELECTION

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, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with American Air Filter Company, Inc., Louisville, Kentucky, 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 Ninth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during the said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by UAW-CIO, or by United Dust Control Workers, for the purposes of collective bargaining, or by neither.

<sup>7</sup> It appears that leadmen and inspectors are not supervisory employees

<sup>8</sup> The parties requested that eligibility be determined by the pay roll of March 5, 1945. No sufficient reason appears, however, for deviating from our usual practice in this respect.

<sup>9</sup> Both unions requested that they be designated on the ballot as their names appear in the Direction.