

In the Matter of ALLIS-CHALMERS MANUFACTURING COMPANY and
UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA,
LOCAL 239, CIO

Case No. 1-R-2322.—Decided April 19, 1945

Mr. W. J. McGowan, of Milwaukee, Wis., for the Company.

Mr. Donald Tormey, of Boston, Mass., for the Union.

Mr. Harold M. Humphreys, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical, Radio and Machine Workers of America, Local 239, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Allis-Chalmers Manufacturing Company, Boston, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert, E. Greene, Trial Examiner. Said hearing was held at Boston, Massachusetts, on March 23, 1945. The Company and the Union appeared and participated. All parties 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:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Allis-Chalmers Manufacturing Company, a Delaware corporation has its principal office and place of business at West Allis, Wisconsin. It is generally engaged in the manufacture of machinery of various types, and maintains manufacturing plants in La Crosse, Wisconsin;

Springfield, Illinois; Oxnard, California; Pittsburgh, Pennsylvania; Norwood, Ohio; La Porte, Indiana; and Boston, Massachusetts. This proceeding involves only the Company's Boston, Massachusetts, plant, at which it normally manufactures oil breakers, air blast breakers, and switchgear. At the present time, however, the Company is engaged in the manufacture of switchgear and war equipment, more than 60 percent of its production being of the latter type. In its Boston plant, the Company uses raw materials consisting of steel, brass, copper and wood, and numerous other miscellaneous articles, valued at more than \$2,000,000 annually, of which approximately 80 percent is shipped to the plant from points outside the Commonwealth of Massachusetts. The Company's annual sales of finished products at its Boston plant are valued at more than \$4,000,000, of which approximately 65 percent is shipped to points outside the Commonwealth of Massachusetts. The normal employment at the Boston plant is approximately 708 employees.

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

II. THE ORGANIZATION INVOLVED

United Electrical, Radio and Machine Workers of America, Local 239, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of certain of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the alleged appropriate unit.¹

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 DETERMINATION OF REPRESENTATIVES

Pursuant to a written agreement, the Union, for some time, has been recognized by the Company as the collective bargaining representative of the production and maintenance employees of the Boston plant,

¹ The Field Examiner reported that the Union submitted 18 application for membership cards; that the names of 17 persons appearing on the cards were listed on the Company's pay roll of March 3, 1945, which contained the names of 24 employees in the alleged appropriate unit; and that the cards were dated in February 1945.

excluding, *inter alia*, inspectors. The Union now seeks to enlarge the scope of the contractual unit by adding inspectors, employees who comprise Inspection Department R-28 of the Boston plant. Opposing the Union's position, the Company contends that inspectors are charged with duties of a supervisory nature and are identified with management.

The employees sought merely perform functions entailing inspection duties which cannot be characterized as supervisory or managerial in nature. In a prior proceeding involving inspectors of the Company's La Porte plant, employees whose functions are similar to those of the inspectors here concerned, we concluded that they could properly be added to an existing contractual unit covering production and maintenance employees.² We perceive no reason to find otherwise with regard to the inspectors of the Boston plant.

We agree with the parties that the chief inspector is a supervisory employee within the meaning of our customary definition and, accordingly, he will be excluded. One of the inspectors, Joseph P. Lamb, frequently substitutes for the chief inspector, in the latter's absence, and assumes all of his duties on such occasions. The Company requests Lamb's exclusion, and the Union takes a contrary position. We are of the opinion that Lamb possesses sufficient indicia of supervisory authority to warrant his exclusion.

We find no merit in the Company's contention that August W. Hallvardson, Joseph Vento, and Louise M. Martin are supervisory employees. At the hearing, witnesses for the Company testified that their duties are those of group leaders or key employees, and that they all work under the direct supervision of the chief inspector. The record does not reveal that they possess authority effectively to recommend a change in the status of any other employees. In accordance with the desire of the Union, we shall include them.

We shall direct that an election by secret ballot be held among all inspectors employed by the Company in Inspection Department R-28 of its Boston, Massachusetts, plant,³ excluding the chief inspector 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,⁴ who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction. In the event a majority of these employees select the Union as their bargaining representative, they thereby will have indicated their desire to be bargained for together

² See *Matter of Allis-Chalmers Manufacturing Company*, 54 N. L. R. B. 1303.

³ Hallvardson, Vento, and Martin, as above noted, are included as inspectors.

⁴ Lamb, as indicated above, is excluded as a supervisory employee.

with the employees now represented by the Union by virtue of its agreement with the Company.⁵

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 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 Allis-Chalmers Manufacturing Company, Boston, Massachusetts, 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 First 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 voting group described 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 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, to determine whether or not they desire to be represented by United Electrical, Radio and Machine Workers of America, Local 239, CIO, for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.

⁵ The Company would exclude from participation in the election a regular part-time employee named Fate, a cooperative school student who works as an inspector on alternate weeks. He shall be eligible to vote. See *General Petroleum Corporation of California*, 56 N. L. R. B. 1366.