

In the Matter of EDGEWATER STEEL COMPANY *and* UNITED STEEL-
WORKERS OF AMERICA, CIO

Case No. 6-R-1113.—Decided May 8, 1945

Messrs. C. M. Thorp, Jr., and D. S. Bell, both of Pittsburgh, Pa.,
for the Company.

Mr. S. Harold Grossman, of Tarentum, Pa., *Mr. Stanley I. Brown-*
ing, of Verona, Pa., and *Mr. Phillip M. Curran*, of Pittsburgh, Pa.,
for the Union.

Miss Helen Hart, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Edgewater Steel Company, Oakmont, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Allen Sinsheimer, Jr., Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on March 20, 1945. The Company and the Union appeared and participated.¹ All parties 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 Company moved to dismiss the petition and the Trial Examiner referred the motion to the Board. For reasons set forth hereinafter, the 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,² the Board makes the following:

¹ Edgewater Employees Independent Union was served with Notice of Hearing but failed to appear.

² Subsequent to the hearing, the parties filed with the Board a stipulation to correct the record in certain respects. The record is corrected accordingly.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Edgewater Steel Company, a Pennsylvania corporation with its principal office and place of business in Oakmont, Pennsylvania, is engaged in the manufacture of steel products, principally consisting of locomotive tires, rolled steel railroad wheels, rolled steel rings, and ring springs. During the year 1944, the Company purchased raw materials amounting in value to approximately \$6,000,000, of which about 35 percent was shipped to the Company's Oakmont plant from points outside the Commonwealth of Pennsylvania. During the same period the company produced finished products valued in excess of \$13,000,000, of which approximately 70 percent was shipped from the Company's Oakmont plant to points outside the Commonwealth of Pennsylvania.

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

II. THE ORGANIZATION INVOLVED

United Steelworkers of America, 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 refuses to recognize the Union as the collective bargaining representative of certain of its employees.

The Company contends that no election should be directed at this time for the reason that an election was conducted by the Board on July 19, 1944, in which the Union failed to obtain a majority of the votes cast.³ In the present case, the Union has submitted designations dated subsequent to the July election which indicate it represents a substantial number of the Company's employees in the unit it alleges to be appropriate,⁴ these designations reflect a proportional increase in interest over that indicated by the results of the July election,⁵ and almost 10 months have elapsed since that election. Under these circumstances, we believe that the policies of the Act will best be effectuated by directing another election at this time.⁶

³ See *Matter of Edgewater Steel Company*, 56 N. L. R. B. 1778.

⁴ The Field Examiner reported that the Union submitted 615 authorization cards bearing apparently genuine signatures, of which 494 cards contained names which were listed on the pay roll of March 3, 1945; that 11 of these cards were dated prior to the election, 46 were undated, and 558 dated since the election. By stipulation, the Company and the Union agreed that at present there are 963 persons in the alleged appropriate unit.

⁵ Forty-five percent of the employees in the alleged appropriate unit signed cards dated subsequent to the first election which checked with the pay roll of March 3, 1945. In the July election, the Union polled only 41 percent of the total number eligible to vote.

⁶ *Matter of Vermont Copper Company, Inc.*, 59 N. L. R. B. 853, *Matter of Columbia Aircraft Corporation*, 60 N. L. R. B. 257.

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 Union and the Company agree that the production and maintenance unit established by the Board in the previous proceeding affecting the Company's employees is appropriate.⁷ Disagreement arises over the question of whether or not certain employees have authority comparable to that of foremen, a group excluded from the unit. The Company classifies C. C. Moore, Frank Mitchell, Robert Haskins, and Leroy Nail, employees in the electrical department, and A. M. Fescemeyer, W. F. Glew, J. D. Curran, and Harold Nelson, employees in the mechanical department, as gang leaders, a category included in the unit; it contends that they should be accordingly included. It classifies A. Arango and A. M. Haney, as electrician and oiler respectively, and therefore also requests their inclusion. The Union maintains that all these employees are foremen, in fact, and asks for their exclusion. Uncontradicted testimony indicates that the employees above-mentioned classified by the Company as gang leaders are more experienced employees who direct other men on specific jobs, but who have no authority to hire or discharge their assistants or effectively recommend such action. We shall include them. Arango and Haney are also highly skilled employees who may on certain jobs act in a capacity similar to that of a gang leader. They, too, lack authority to alter the status of an employee and we shall include them in the unit.⁸

We find that all production and maintenance employees⁹ of the Company at its plant at Oakmont, Pennsylvania, including truck drivers, loadmen, watchmen, lay-out men, stencilers, janitors, the first janitor, checkers, toolroom attendants, powerhouse attendants, locomotive engineers, elevator operators, trainers, servicemen,¹⁰ laboratory employees, weighmen, and gang leaders,¹¹ but excluding the chief inspector, timekeepers, all plant guards, recorders (production record-

⁷ *Matter of Edgewater Steel Company*, cited in footnote 3, *supra*.

⁸ A chart drawn by the superintendent of the electrical department was introduced into evidence by the Union. This chart classified C. C. Moore, Frank Mitchell, Robert Haskins, Leroy Nail, A. Arango and A. M. Haney as foremen. However, it was not authorized by the Company.

⁹ Including A. Arango and A. M. Haney; F. W. Meckel and C. F. Park are also included in accordance with the agreement of the parties.

¹⁰ Including W. F. King, in accordance with the unopposed request of the Company, and Arthur Bollinger, pursuant to the stipulation of the parties.

¹¹ Including the gang leaders in the mechanical department, A. M. Fescemeyer, W. F. Glew, J. D. Curran, and Harold Nelson; and the gang leaders in the electrical department, C. C. Moore, Frank Mitchell, Robert Haskins, and Leroy Nail.

ers),¹² clerical employees, superintendents,¹³ assistant superintendents, foremen,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, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.¹⁵

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, subject to the limitations and additions set forth in the Direction.

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 Edgewater Steel Company, Oakmont, Pennsylvania, 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 Sixth 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 or not they desire to be represented by United Steelworkers of America, CIO, for the purposes of collective bargaining.

¹² Including Harry Overbeck, by agreement of the parties.

¹³ Including A. W. McAuley, by agreement of the parties.

¹⁴ Including Louis Aiello, A. Ambler and J. Miller, in accordance with the parties' agreement.

¹⁵ This is the same unit found appropriate by the Board in the previous case involving the Company's employees.