

In the Matter of ARMSTRONG TIRE & RUBBER COMPANY and UNITED
RUBBER WORKERS OF AMERICA, AFFILIATED WITH THE CONGRESS OF
INDUSTRIAL ORGANIZATIONS

Case No. 15-R-1316.—Decided May 26, 1945

Messrs. Gerald H. Brandon, Fred E. Fenstemaker, and Eugene E. Fisher, of Natchez, Miss., for the Company.

Mr. F. M. Dickenson, of Memphis, Tenn., and Mr. Lyman C. Covert, of Natchez, Miss., for the Union.

Mr. Bruce C. Heath, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Rubber Workers of America, affiliated with the Congress of Industrial Organizations, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Armstrong Tire & Rubber Company, Natchez, Mississippi, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before LeRoy Marceau, Trial Examiner. Said hearing was held at Natchez, Mississippi, on April 12, 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. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. The parties were afforded an opportunity to file briefs with the Board.

¹ The American Federation of Labor was served with Notice of Hearing but did not appear. It nevertheless informed the Regional Director that it desired to be placed on the ballot in the event an election was directed. However, since the A. F. L. made no showing of representation, we shall not accord it a place on the ballot. See *Matter of Chicago Flexible Shaft Company*, 60 N. L. R. B. 848.

61 N. L. R. B., No. 239.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Armstrong Tire & Rubber Company, a Delaware corporation, has its principal office and place of business on Brenhan Avenue, Natchez, Mississippi. The Company is engaged in the manufacture of automobile tires and tubes for both truck and passenger vehicles. During the year 1944, the Company purchased raw materials valued at approximately \$7,000,000, about 98 percent of which was shipped to the Company at its Mississippi plant from points outside the State. During the same period, the Company sold manufactured products valued at approximately \$10,000,000, of which 95 percent was shipped to points outside the State of Mississippi.

We find, contrary to the contention of the Company, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Rubber Workers 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

On February 19, 1945, the Union, by registered letter, notified the Company that it represented a majority of the employees and requested a conference. The Company made no reply to the letter, and the petition in the instant case was filed on February 20, 1945.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.²

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 seeks a unit consisting of all production and maintenance employees at the Brenhan Avenue, Natchez, Mississippi, plant of the Company, excluding plant guards, office clericals, foremen, and all supervisory employees. The Company generally agrees to the re-

² The Regional Director reported that the Union submitted 409 application for membership cards; that the names of 357 persons appearing on the cards were listed on the Company's pay roll of February 23, 1945, which contained the names of 878 employees in the claimed appropriate unit and the cards were dated February 1945, and 17 were undated.

quested unit, but would exclude various categories that the Union would include, hereinafter described. The Company's contention is founded on the general ground that none of the named groups perform any physical work in the manufacture of tires and tubes and should, therefore, be excluded. The Union takes the position that most of these employees fall within the Board's customary definition of production and maintenance employees.

Instructors: The instructors are former production employees who are employed by the Company to instruct new employees in tire building and the manufacture of tubes. The record discloses that they work constantly with new production employees and assist other employees when necessary. They are paid on an hourly basis and their wage rate is only slightly higher than the regular production employee. They make reports to the foreman on the quality of the work turned out by the learning employees, but have no authority to hire, discharge, or otherwise change the status of any employee. We shall include them within the unit.³

Inspectors: The Company has several inspectors in its various departments. It is the duty of these employees to check and inspect the tires and tubes at all stages of production. They work in close proximity with production employees and are hourly paid. Their wage rate is about the same as the regular production employee. Inspectors have no supervisory authority and, in view of their common interest with production and maintenance employees, we shall include them within the unit.⁴

Adjustment helper: In the adjustment department the Company maintains two employees, one an adjuster and the other a helper. The adjuster, whom the parties agree to exclude, makes replacements and adjustments with persons having claims over defective tires or tubes. He has a helper who performs the labor involved in making the physical exchange of merchandise between the Company and its customers. We shall include the helper.

Production checkers: These employees are plant clerks who make a physical count of the Company's products as they come off the conveyors. Their count is tabulated and reported to the company management through their foremen. They are hourly paid and have the same working conditions as the regular production and maintenance workers and are under the same departmental supervision as the latter. We shall include them within the unit.⁵

Laboratory employees: The laboratory has 11 employees exclusive of the chief chemist. These employees are designated Technicians

³ See *Matter of General Steel Castings Corp.*, 41 N. L. R. B. 350.

⁴ See *Matter of Scott & Williams, Incorporated*, 58 N. L. R. B. 249.

⁵ See *Matter of Goodman Manufacturing Co.*, 58 N. L. R. B. 531.

A and B, curemen and helpers. Technicians test stock, fabrics, cotton and rayon, and other ingredients which go into the finished product. Curemen run cure tests with the assistance of a helper. None of these employees are graduate chemists and none are required to have any professional education. Most of them have been trained by the Company and all are hourly paid. We have customarily held that laboratory employees making routine tests and production checks are intimately a part of production and properly belong to a unit of production and maintenance employees. We shall, therefore, include the laboratory employees in the unit.⁶

Miscellaneous employees: The employees in the receiving and stores and the warehouse and shipping departments, and the janitor yardmen-general labor department perform the general duties indicated by the title of their respective departments, i. e., the physical work of receiving and storing incoming raw materials, packing and shipping of outgoing finished products, and general custodial and maintenance work. The record discloses that all are hourly paid and have the same general working conditions as other production and maintenance employees. We shall include them within the unit.

Scheduling assistant: This employee maintains an inventory of products and materials, keeps various allied data and records. A majority of his time is spent in the main office compiling records, and at the time of the hearing his transfer to the office pay roll was contemplated within 2 weeks. We are of the opinion that his work is more closely allied to that of the office clerical than to that of the production and maintenance employees. We shall, therefore, exclude him from the unit.

We find that all production and maintenance employees of the Company at its Brenhan Avenue plant, including instructors, inspectors, production checkers, laboratory employees, adjustment helper, employees of the receiving and stores and warehouse and shipping departments, janitor yardmen-general labor department, but excluding plant guards, the adjuster, office clerical employees, the scheduling assistant, the chief chemist, 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-

⁶ See *Matter of Grinnell Corporation*, 56 N. L. R. B. 1766

roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions as 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 the Armstrong Tire & Rubber Company, Natchez, Mississippi, 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 Fifteenth 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 under 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 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 Rubber Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.