

In the Matter of DRAVO CORPORATION, REALTY DIVISION¹ and INTERNATIONAL BROTHERHOOD OF FIREMEN AND OILERS, LOCAL 75, AFL

Case No. 6-R-1123.—Decided May 31, 1945

Messrs. Frank E. Coho, Robert Geisler, and C. H. Bryan, all of Pittsburgh, Pa., for the Company.

Mr. J. C. Wiedmann, of Pittsburgh, Pa., for the AFL.

Mr. Milton Weisberg, of Pittsburgh, Pa., for the CIO.

Mr. Samuel G. Hamilton, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Brotherhood of Firemen and Oilers, Local 75, AFL, herein called the AFL, alleging that a question affecting commerce had arisen concerning the representation of employees of Dravo Corporation, Realty Division, Pittsburgh, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Allen Sinsheimer, Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on April 19, 1945. At the hearing, the Trial Examiner granted a motion to intervene made by United Maintenance Workers Union, Local 1347, CIO, herein called the CIO. The Company, the AFL, and the CIO 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

Dravo Corporation is a Pennsylvania corporation engaged in the manufacture of ships and cranes at Neville Island, Pennsylvania,

¹ Name as amended at hearing
61 N. L. R. B., No. 257.

and Wilmington, Delaware. At Pittsburgh, Pennsylvania, the Company operates the Dravo Building, with which we are concerned herein. This building houses many of the offices of Dravo Corporation and is an integral part of its operations. During the past year the Dravo Corporation purchased for use at its shipyards at Neville Island, Pennsylvania, raw materials valued in excess of \$1,000,000, of which more than 50 percent originated at points outside the Commonwealth of Pennsylvania. During the same period it manufactured and sold finished products valued in excess of \$1,000,000, of which more than 50 percent was shipped to points outside the Commonwealth.

The Company admits, for the purpose of this proceeding, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Firemen and Oilers, Local 75, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

United Maintenance Workers Union, Local 1347, 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 AFL as the exclusive bargaining representative of certain of its employees until the AFL has been certified by the Board in an appropriate unit.²

A statement of a Board agent, introduced into evidence at the hearing, indicates that the AFL represents a substantial number of employees in the unit hereinafter found appropriate.³

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 parties are in agreement that all maintenance employees working in the Company's Dravo Building, excluding office, clerical, and

² Neither the Company nor the CIO specifically raises as a bar a contract made by them, effective as of May 9, 1944, which was to continue in operation for 1 year and for annual periods thereafter in the absence of notice to terminate or to change given by either party. It appears that the AFL apprised the Company of its claim to representation on February 19, 1945.

³ An attorney for the Board reported that the AFL submitted eight authorization cards; that the names of eight persons appearing on the cards were listed on the Company's pay roll of March 29, 1945, which contained the names of eight employees in the appropriate unit; and that the cards were all dated February 26, 1945. The CIO relies upon its contract as evidence of its interest.

supervisory employees, constitute an appropriate unit. They are in disagreement, however, with respect to the inclusion of the superintendent of the building, the Company contending that he is a supervisory employee and should be excluded, and both the AFL and the CIO taking the opposite position.

Charles Reilly is in charge of the Dravo Building, under the general supervision of the general manager, and is classified on the pay roll as the superintendent of the building. He supervises seven maintenance employees, regulates their hours of work, grants them leaves of absence, makes out vacation schedules, and is responsible for their presence when needed. His salary is \$170 per month, whereas that of the men under his supervision amounts to \$120 per month, excluding overtime. He is not required to account strictly to the general manager for the time occupied in his various duties. These include miscellaneous repair and maintenance work, such as electrical, plumbing, boiler, and furniture repairs, firing the boiler, running elevators and purchasing in small quantities supplies necessary to the maintenance of the building. Although it is clear that Reilly is a working foreman, it is equally clear that his supervisory duties require at least one-third of his time. Moreover, it is undisputed that none of his recommendations with respect to employment or discharge has been refused. In fact, he has hired or effectively recommended the hiring of five of the seven employees under his supervision, and he has also effectively recommended the discharge of one employee. Under these circumstances, we shall exclude him from the unit.

We find that all maintenance employees working in the Company's Dravo Building, excluding all office and clerical employees, the superintendent of the building, 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 another election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.⁴

⁴ We hereby grant the requests of the AFL and the CIO to appear on the ballot as their names are 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 Dravo Corporation, Realty Division, Pittsburgh, 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 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 International Brotherhood of Firemen and Oilers, Local 75, Pittsburgh, Pennsylvania, or by United Maintenance Workers Union, Local 1347, CIO, for the purposes of collective bargaining, or by neither.