

In the Matter of ALADDIN INDUSTRIES, INC. and UNITED ELECTRICAL,
RADIO & MACHINE WORKERS OF AMERICA, C. I. O.

Case No. 11-R-816.—Decided July 31, 1945

Messrs. T. A. Blain and E. J. Almquist, both of Alexandria, Ind., for the Company.

Mr. Robert Kirkwood, of Indianapolis, Ind., and *Mr. Gene Johnson*, of Summitville, Ind., for the UE.

Mr. Walter Bennett, of Kokomo, Ind., and *Mr. Frank Hall*, of Alexandria, Ind., for Local 52.

Mr. David V. Easton, of counsel to the Board:

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Electrical, Radio & Machine Workers of America, C. I. O., herein called the UE, alleging that a question affecting commerce had arisen concerning the representation of employees of Aladdin Industries, Inc., Alexandria, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Clifford L. Hardy, Trial Examiner. Said hearing was held at Alexandria, Indiana, on May 28, 1945. The Company, the UE, and Metal Polishers, Buffers, Platers and Helpers International Union, Local 52, herein called Local 52, appeared, participated, and 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

Aladdin Industries, Inc., an Illinois corporation with its principal office and place of business located at Chicago, Illinois, operates a plant
63 N. L. R. B., No. 5.

located at Alexandria, Indiana, with which we are concerned herein. The Company is engaged in the manufacturing and selling of mantle lamps, electric lamps, lamp accessories, lamp shades, vacuum bottles, and vacuum jars. During the year 1944 the Company purchased for use at its Alexandria plant raw materials valued in excess of \$100,000, more than 65 percent of which was shipped to said plant from points outside the State of Indiana. During the same period the Company manufactured finished products at said plant valued in excess of \$100,000, more than 70 percent of which was shipped to points outside the State of Indiana.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, and Metal Polishers, Buffers, Platers and Helpers International Union, Local No. 52, affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTIONS CONCERNING REPRESENTATION

On or about March 16, 1941, the Company and Local 52 executed a collective bargaining agreement whereby the Company recognized Local 52 as the exclusive bargaining agent for "all employees of the Polishing and Plating Departments [of the Company (departments 15, 16, and 17)]." This agreement further provided that it was to remain in effect from March 16, 1941 to March 16, 1942, and from year to year thereafter, in the absence of notice by either party to the other 30 days prior to any anniversary date of a desire "to alter, amend, or annul" the agreement. No such notice has been given by either party.

On or about March 27, 1945, the UE requested recognition from the Company as the representative of the latter's employees in departments 15, 16, and 17. The Company refused such recognition, stating that it considered the contract between it and Local 52 still to be operative.

The record indicates that, on or about October 1942, the Company, then in the process of converting from peacetime to wartime operations, notified the employees of departments 15, 16, and 17 that their positions were being discontinued and that they would be given the option of transferring to other departments or leaving the Company's employ to seek other positions. These employees were told that when the Company reconverted to peacetime operations it would endeavor to recall them to their former positions. Approximately half the em-

ployees involved transferred to other departments of the Company, and the remainder left its employ. The three departments continued to exist, however, staffed by a new group of employees, and the work performed by them differed from and was less skilled than the work performed by their predecessors.

The record further discloses that the Company last met with a shop committee of Local 52 3 years ago, in the summer of 1942. Furthermore, in January 1944, without the concurrence of Local 52, the Company took unilateral action in filing a petition with the National War Labor Board seeking approval of an increase in the wages of its employees, including those engaged in departments 15, 16, and 17, and its application was subsequently granted. Finally, the record reveals that, since 1942, except for one instance in July 1944, the Company conducted no collective bargaining relations with Local 52,¹ and that Local 52 apparently ceased to function for all practical purposes as the collective bargaining representative of the Company's employees. Counsel for Local 52 himself conceded that after 1942 "there was no longer a unit" which could be represented by his organization.

While the contract between the Company and Local 52 was renewable on its face, in the absence of an overt act, at the time of the operative date of the automatic renewal clause in 1945, Local 52 did not then truly represent the Company's employees, having been defunct as to them. Thus, in our view, it was incapable of renewing the contract in their behalf. Accordingly, we find that the contract of March 16, 1941, is not a bar to a current determination of representatives.

A statement of a Field Examiner for the Board, introduced into evidence at the hearing, indicates that the UE 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

We find, substantially in accordance with the UE's unopposed request, that all employees of the Company in departments 15, 16, and

¹ Even this one instance is open to serious question. An employee of the Company who was formerly a member of Local 52's shop committee, but who is now engaged in a department of the Company not previously represented by Local 52, prosecuted a grievance on behalf of a fellow employee who had, at one time, been a member of Local 52, but had left the Company's employ at the time of the conversion and subsequently returned to work. It is not clear whether the employee negotiating with the Company conducted these negotiations as a representative of Local 52, or merely as a friend of the employee who had the grievance.

² The Field Examiner reported that the UE submitted 10 authorizations which "check" with the Company's pay roll for the period ending April 28, 1945; and that the unit sought by the UE was comprised of approximately 12 employees.

Local 52 relies upon its contract of March 16, 1941, for the establishment of its interest herein.

17, excluding supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, and all other employees of the Company, 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, subject to the limitations and additions set forth in the Direction.³

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 the 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 Aladdin Industries, Inc., Alexandria, Indiana, 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 Eleventh 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 who have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, or by Metal Polishers, Buffers, Platers and Helpers International Union, Local No. 52, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

³ In view of the contractual relationship which existed between the Company and Local 52, we shall permit Local 52 to appear on the ballot. See *Matter of Sunshine Mining Company*, 48 N. L. R. B. 301.