

In the Matter of HUGHES TOOL COMPANY, ALSO KNOWN AS HUGHES AIRCRAFT Co. and ENGINEERS & ARCHITECTS ASSOCIATION OF SOUTHERN CALIFORNIA, CULVER CITY CHAPTER

Case No. 21-R-2661.—Decided September 20, 1945

Mr. Irvin Stalmaster, of Los Angeles, Calif., for the Company.

Katz, Gallagher & Margolis, by *Messrs. Ben Margolis* and *Leo Gallagher*, of Los Angeles, Calif., for the Engineers.

Mr. Nick Cordil, of Los Angeles, Calif., and *Mr. John Murray*, of Santa Monica, Calif., for the Carpenters.

Mr. Herbert C. Kane, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by Engineers & Architects Association of Southern California, Culver City Chapter, herein called the Engineers, alleging that a question affecting commerce had arisen concerning the representation of employees of Hughes Tool Company, also known as Hughes Aircraft Co., of Culver City, California, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George H. O'Brien, Trial Examiner. Said hearing was held at Los Angeles, California, on April 4, 6, 9, 10, and 11, 1945. On July 16, 1945, pursuant to an order of the Board, a further hearing upon due notice, was held at Los Angeles, California, before the same Trial Examiner. The Company, the Engineers, and Aircraft Workers Local No. 1553, United Brotherhood of Carpenters and Joiners of America, AFL, herein called the Carpenters,¹ appeared and participated in both hearings.² 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 hearings are free

¹ At the hearing the Trial Examiner granted the motion of the Carpenters to intervene.

² The Engineers waived the unfair labor practice charges which it had filed against the Company in Cases Nos. 21-C-2479 and 21-C-2561 insofar as they might constitute a basis for objecting to the instant proceedings.

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

Hughes Tool Company, a Delaware corporation licensed to do business in the State of California, conducts its aircraft activities within the State of California under the name of Hughes Aircraft Co. One of the divisions of Hughes Aircraft Co. is the Culver City Division, the only plant here involved, located at Culver City, California, where the Company is engaged in the manufacture of airplanes for the United States Government. During 1944 raw materials and supplies valued at over \$500,000 were purchased, of which not less than 90 percent was purchased from sources outside the State of California.

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

II. THE ORGANIZATIONS INVOLVED

Engineers & Architects Association of Southern California, Culver City Chapter, unaffiliated, is a labor organization admitting to membership employees of the Company.

Aircraft Workers Local No. 1553, United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor, 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 Engineers as the exclusive bargaining representative of its professional and technical employees until the Engineers has been certified by the Board in an appropriate unit.

A statement of a Board attorney, introduced into evidence at the hearing, indicates that the Engineers represents a substantial number of employees in the unit which it seeks.³

³ The Board attorney reported that the Engineers submitted 143 cards, that the names of 127 persons appearing on the cards were listed on the Company's pay roll of April 4, 1945, which contained the names of 356 employees in the appropriate unit, and that the cards were all dated between December 1944 and April 1945, except for 1, which was undated.

The Carpenters submitted 79 cards. The names of 68 persons appearing on the cards were contained in the aforesaid pay roll, 48 appearing in the unit claimed by the Engineers to be appropriate. The cards were dated between February 1944 and April 1945, except for 1 which was undated.

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

The Engineers requests a unit of all technical and professional employees of the Company at its Culver City plant, excluding loftsmen.⁴ The Carpenters contends that the unit petitioned for is inappropriate because the Engineers seeks the inclusion of some employees in categories presently represented by the Carpenters⁵ and the inclusion of others which, because of their managerial, confidential or supervisory status, should not be included in any unit found appropriate by the Board. These disputed categories are hereinafter discussed. The Company takes no position beyond expressing a desire for a single unit covering all technical and professional employees.

The Carpenters maintains that the following employees enjoy a managerial, supervisory, or confidential status such as warrants their exclusion from any unit found appropriate by the Board:

Industrial Engineer and Methods Analyst: These employees analyze and determine methods and procedures. In consultation with manufacturing engineers and the head of the industrial relations department, they also formulate incentive and bonus plans.

Research and Design Engineer: As part of his duties, this employee negotiates on behalf of the Company with employees for patentable ideas.

We find that the foregoing employees possess managerial duties and functions warranting their exclusion from the technical and professional unit requested by the Engineers; we shall exclude them.

Aerodynamicists: These employees are college trained engineers and perform standard analyses on new and modified airplane design.

Aerodynamics Analysts: This position requires a college degree in aeronautical engineering and involves duties of a highly technical nature.

Power Plant Test Engineers: It is the duty of these employees to design and work out the instrumentation of all power plant installation equipment. They are not required to have college training, but the analysis of data and reduction thereof to practical use, as well as

⁴ The Engineers would also include those employees who may be employed in categories which may hereafter come into existence. We shall, however, in conformance with our usual policy, make no provision for the inclusion or exclusion of those technical or professional categories in which the Company presently has no one employed.

⁵ The Carpenters currently represents, pursuant to either formal certification by the Board or designation following consent elections, loftsmen A, B, and C (including loftsmen and loftsmen beginners), factory clerical employees, and production and maintenance employees (excluding, *inter alia*, technical employees).

the recommendations which they are required to make are clearly technical in nature.

Process Analyst: The duties of the employee in this category are to investigate and suggest changes in shop practice and to inquire into potentially patentable ideas of employees. In the latter connection, he reports on the ideas and in accordance with the instructions of the Company, draws up contracts and prepares other material for the purpose of obtaining the desired patent.

Research Laboratory Analysts: It is the duty of these analysts to perform scientific tests and research.

Stress Analysts: These employees prepare stress analysis reports and when necessary coordinate physical tests therewith.

Weight Analysts: These employees ascertain, calculate, estimate, and record weight and balance, and prepare other technical data. They also direct the weight control and the weighing of airplanes.

We find that the employees in the above-mentioned categories are technical or professional employees who possess no managerial or confidential duties; nor do they exercise supervisory authority within our definition thereof. We shall include them in the technical and professional voting group.

A dispute exists concerning the technical status of the following employee categories:

Engineering Planners: The chief function of these employees is to correlate costs and time. We are of the opinion that the duties performed by them are clerical rather than technical and that they, therefore, should be excluded from a unit of technical employees; we shall, therefore, exclude them from the technical and professional voting group.

Production Planners: The employees in this category have duties similar to those of other shop clerical employees. We shall, therefore, exclude them.

Shop Weights Men: The duties of employees in this category include the weighing of the parts in the shop, checking of weights against blueprints, and the maintenance of related records. It is our opinion that they are not technical employees; we shall, therefore, exclude them.

The tool design group, department 22, includes tool designers, tool planners, tool proofers and tool liaison men. The general function of this department is to design, and determine the functionality of tools, jigs, fixtures, and machines. They are located in a separate department under the ultimate supervision of the chief engineer. Their work is technical and highly skilled. In view of the fact that the interests and duties of these employees differ substantially from those of the other technical and professional employees of the Com-

pany, we are of the opinion and find that they might properly function as a separate bargaining unit or as part of a larger and more inclusive technical and professional unit. We shall, accordingly, permit the scope of the bargaining unit or units to be determined in part, by the results of separate elections which we shall hereinafter direct.

The loft and template section of the engineering department, formerly the loft and template department, includes, in addition to the factory clerical employees, and loftsmen A, B, and C, loftsbeggins and loftsledmen, now represented by the Carpenters, the following technical employees: draftsmen, lay-out draftsmen, engineering draftsmen, checkers, mathematicians, and template makers. The lofting operation has traditionally maintained its identity in the aircraft industry and the technical employees in the loft are part of a closely integrated operation. They form a well-defined and homogeneous group which may function as a separate unit appropriate for the purposes of collective bargaining. On the other hand, the Company intends to use the technical employees in the loft and template section, with the exception of the loftsmen, in all sections of the engineering department as a reservoir or pool. They might properly belong, therefore, in the more comprehensive unit of technical and professional employees sought by the Engineers. We shall, accordingly, permit the scope of the bargaining unit or units to be determined, in part, by the results of separate elections which we shall hereinafter direct.

We shall direct that separate elections by secret ballot be held among the employees in each of the voting groups set forth below who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction:

(1) All tool designers, tool liaison men, tool planners, tool proffers, and other technical employees engaged in the Company's tool design department, department 22, excluding all 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;

(2) All draftsmen, engineering draftsmen, checkers, lay-out draftsmen, template makers, and all other technical employees in the loft and template section of the engineering department, excluding loftsmen A, B, and C, loftsledmen and loftsmen begginers, and all supervisory employees with authority to hire, promote, discharge, effectively recommended such action, and all other employees of the effectively recommend such action, and all other employees of the Company;

(3) All remaining technical and professional employees of the Company,⁶ including aerodynamicists, aerodynamics analysts, power plant test engineers, process analyst, research laboratory analysts, stress analysts, weight analysts, but excluding all those included in groups (1) and (2), above, the industrial engineer, the wage and salary analyst, the methods analyst, research and design engineer, photographer, photographic lab men, template reproduction technicians, production planner, shop weights men, engineering planner, and all or any other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action.⁷

DIRECTION OF ELECTIONS

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 Hughes Tool Company, also known as Hughes Aircraft Co., Culver City, California, elections 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 Twenty-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 groups of employees of the Company, 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 elections, to determine whether they desire to be represented by Engineers and Architects Association of Southern California, Culver City Chapter, or by Aircraft Workers

⁶ Included are the following employees not employed in the loft and template section: checkers, draftsmen, engineering draftsmen, engineering drawings checker, engineering technician, lay-out draftsmen, material analyst, mathematician, production illustrator, technical computer, technical illustrator.

⁷ Among the listed exclusions the parties specifically agreed to exclude the wage and salary analyst, photographers, photographic lab men, and the template reproduction technicians, the other exclusions have already been discussed above.

Local No. 1553, United Brotherhood of Carpenters and Joiners of America, affiliated with the American Federation of Labor,⁸ for the purposes of collective bargaining, or by neither.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Direction of Elections.

⁸ The Carpenters indicated at the hearing that it did not desire to participate in any election in an over-all unit of professional and technical employees if the scope of such unit did not conform to its request. We shall, nevertheless, accord the Carpenters a place on the ballot in the election directed in the residual voting group, with permission to withdraw therefrom by notifying the Regional Director within ten (10) days after the issuance of this Decision and Direction of Elections.