

In the Matter of POSITIVE LOCKWASHER COMPANY OF AMERICA and LOCAL 713, UAW-CIO and POSITIVE LOCKWASHER EMPLOYEES' ASSOCIATION

Case No. 2-RE-73.—Decided October 8, 1945

Mr. Clarence A. Ward, of Elizabeth, N. J., for the Company.
Rothbard, Harris & Talisman, by *Mr. Bernard Cherny*, of Newark, N. J., for the UAW.

Pellegrin & Pellegrin, by *Mr. Franklin E. Pellegrin*, of Newark, N. J., for the Association.

Mr. Glenn L. Moller, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Positive Lockwasher Company, Newark, New Jersey, herein called the Company, alleging that a question affecting commerce had arisen concerning the representation of its employees, the National Labor Relations Board provided for an appropriate hearing upon due notice before Cyril W. O'Gorman, Trial Examiner. The hearing was held at Newark, New Jersey, on July 5 and 6, 1945. The Company, International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 713, CIO, herein called the UAW, and Positive Lockwasher Employees' Association, herein called the Association, 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

The Positive Lockwasher Company of America is a New Jersey corporation with its office and plant located in Newark, New Jersey, where the Company is engaged in the manufacture of spring washers.

During the year 1944 the Company used raw materials, consisting chiefly of steel and bronze, valued in excess of \$100,000, of which materials 66 percent was shipped to the Company's Newark plant from points outside the State of New Jersey. During the same period 90 percent of the finished products of the Newark plant was shipped to points outside the State of New Jersey.

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

II. THE ORGANIZATIONS INVOLVED

International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 713, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

Positive Lockwasher Employees' Association is an unaffiliated labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to either union as the exclusive bargaining representative of its employees until it has been certified by the Board in an appropriate unit.

Although the UAW has represented the employees involved in this proceeding since April 1943, its last collective bargaining agreement with the Company expired February 1, 1945, each party having notified the other of its desire to terminate the agreement.

A statement of a Board agent, introduced into evidence at the hearing, indicates that each union represents a substantial number of employees in the unit hereinafter found appropriate.¹

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

In conformity with the stipulation of the parties, we find that all employees of the Company at its Newark plant, excluding executives, direct representatives of the management, directors of the Company, factory managers, assistant factory managers, foremen, clerical and office employees, 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

¹ The Field Examiner reported that the Association submitted a petition and authorization cards bearing apparently genuine original signatures of 27 persons. There are 45 employees in the appropriate unit. The UAW relies upon its contract as evidence of its interest.

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-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 Positive Lockwasher Company of America, Newark, New Jersey, 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 Second 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 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 election, to determine whether they desire to be represented by International Union, United Automobile, Aircraft & Agricultural Implement Workers of America, Local 713, affiliated with the Congress of Industrial Organizations, or by Positive Lockwasher Employees' Association, for the purposes of collective bargaining, or by neither.