

In the Matter of UNITED REFRIGERATOR MFG. CO., EASTERN DIVISION,
INC. and UNITED STEELWORKERS OF AMERICA, CIO

Case No. 6-R-1182.—Decided October 12, 1945

Mr. E. M. Pettibone, of Connellsville, Pa., for the Company.

Mr. John J. Brownlee, of Pittsburgh, Pa.; for the Union.

Mr. Philip Licari, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of United Refrigerator Mfg. Co., Eastern Division, Inc., Connellsville, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Allan Sinsheimer, Jr., Trial Examiner. Said hearing was held at Pittsburgh, Pennsylvania, on July 2, 1945. The Company and the Union 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

United Refrigerator Mfg. Co., Eastern Division, Inc., is a Pennsylvania corporation engaged in the manufacture of refrigerators and air conditioning equipment at Connellsville, Pennsylvania. Since April 1945 the Company has purchased raw materials valued at approximately \$10,000, of which more than 50 percent has been

shipped from points outside the Commonwealth of Pennsylvania. During the same period, the Company has produced goods valued in excess of \$200,000, all of which has been shipped to the United States Government for the use of its armed forces throughout the world.

The Company admits, and we find, that it is engaged in commerce within the meaning of the Act.

II. THE ORGANIZATION INVOLVED

United Steelworkers 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

The Union advised the Company that it wished to be recognized as the sole collective bargaining representative of certain of its employees. The Company refused to accord such recognition until the Union is certified by the Board in an appropriate unit.

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

The Company and the Union agree that the appropriate unit should consist of all production and maintenance employees engaged at the Company's Connellsville, Pennsylvania, plant, including watchmen, but excluding clerical and salaried employees, employees of the New York Terminal Warehouse Association, foremen, and all other supervisory employees. They are in dispute, however, concerning a foreman;² the Company desires to exclude him and the Union wishes to include him.

The Company employs a foreman whose function is to supervise a spray gun paint crew composed of six painters. He is hourly paid, as are all the Company's other foremen, and although he spends practically all his time doing work similar to that performed by members of his crew, the record shows that he assigns work to these employees,

¹ The Field Examiner reported that the Union submitted 106 authorization cards bearing apparently genuine original signatures, of which 68 bore the names of persons appearing on the Company's pay roll of June 13, 1945, which contained the names of 134 employees in the alleged appropriate unit.

At the hearing the Trial Examiner stated on the record that the Union further submitted 29 application-for-membership cards bearing apparently genuine original signatures, of which 25 bore the names of persons appearing on the Company's pay roll of June 25, 1945.

² The foreman involved is George Campbell

instructs new men, and his pay is substantially higher than that of any employee under his supervision. It further appears that he has the authority to recommend effectively the discharge or transfer of members of his crew. We are persuaded that the foreman in question is a supervisory employee within the meaning of the Board's customary definition, and we shall exclude him.

We find that all production and maintenance employees engaged at the Company's Connellsville, Pennsylvania, plant, including watchmen, but excluding clerical and salaried employees, employees of the New York Terminal Warehouse Association, foremen,³ 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 an appropriate unit 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 United Refrigerator Mfg. Co., Eastern Division, Inc., Connellsville, 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

³ Including George Campbell, foreman of the spray gun paint crew.

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 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 Steelworkers of America, CIO, for the purposes of collective bargaining.