

In the Matter of HEIDBRINK DIVISION OF THE OHIO CHEMICAL AND MANUFACTURING COMPANY and LOCAL 101, INTERNATIONAL FEDERATION OF TECHNICAL ENGINEERS, ARCHITECTS, AND DRAFTSMEN'S UNION, A. F. OF L.

Case No. 18-R-1354.—Decided November 9, 1945

Messrs Bergman Richards and Frank J. Janes, both of Minneapolis, Minn., for the Company.

Messrs. Roy W. Wier and Vern McFair, both of Minneapolis, Minn., for the Draftsmen.

Mr. George Prouty, of Minneapolis, Minn., for the Machinists.

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

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Local 101, International Federation of Technical Engineers, Architects, and Draftsmen's Union, A. F. of L., herein called the Draftsmen, alleging that a question affecting commerce had arisen concerning the representation of employees of Heidbrink Division of the Ohio Chemical and Manufacturing Company, Minneapolis, Minnesota, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Stephen M. Reynolds, Trial Examiner. The hearing was held at Minneapolis, Minnesota, on July 30, 1945. The Company, the Draftsmen, and Local Union No. 382, District No. 77, International Association of Machinists, affiliated with the American Federation of Labor, herein called the Machinists, 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.

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Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Ohio Chemical and Manufacturing Company is a Delaware corporation. Its Heidbrink Division, with which we are solely concerned operates a plant at Minneapolis, Minnesota, which manufactures various types of technical and medical equipment, including anaesthesia, oxygen, therapy, resuscitation, aerial and diving equipment. Each month the Company purchases at its Minneapolis plant raw materials valued at approximately \$200,000, of which about 85 percent is obtained from points outside the State of Minnesota. The Company's monthly sales of products finished at the Minneapolis plant approximates \$400,000, in value, of which between 90 and 95 percent is shipped to points outside the State of Minnesota.

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

II. THE ORGANIZATION INVOLVED

Local 101 International Federation of Technical Engineers, Architects and Draftsmen's Union, and Local Union No. 382, District No. 77, International Association of Machinists, both affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

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

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

¹ The Field Examiner reported that the Draftsmen submitted six designations, and that there were six employees in the unit sought.

IV. THE APPROPRIATE UNIT

The Draftsmen seek a unit consisting of all draftsmen, technical engineers and tool designers engaged at the Company's Minneapolis plant,² excluding the chief draftsman and all other supervisory employees. The Company asserts that these employees have been bargained for as part of a plant-wide unit represented by the Machinists, and contends that they should not be separated therefrom. The Machinists is agreeable to the establishment of a separate unit of the employees sought by the Draftsmen.

On July 10, 1944, the Company executed a contract with the Machinists, effective until May 17, 1945, in which it recognized the Machinists as the representative of all its factory employees. Other than the minimum wage provisions, nothing in this contract provided for any conditions of employment relative to the employees sought herein by the Draftsmen. Furthermore, although all factory employees were required, as a condition of employment, to become and remain members of the Machinists, this was not required of the draftsmen or the tool designer.

On November 2, 1944, the Machinists informed the Company that it no longer represented the draftsmen and the tool designer, and that it was cooperating with the Draftsmen, which "now represent" them. Thereafter, the Draftsmen presented a proposed contract to the Company covering these employees, and, in a series of conferences, endeavored to obtain recognition from the Company as their representative. The Company refused to negotiate with the Draftsmen as the representative of these employees in a unit separate from the unit of factory employees, and, as a result of this impasse, the Draftsmen filed the petition herein.

In view of the foregoing circumstances, and since the record indicates that the draftsmen and the tool designer are technical employees, with special skills and trainings, we are of the opinion that they comprise a separate appropriate unit.³

We find that all draftsmen and tool designers employed by the Company at its Minneapolis, Minnesota, plant, excluding the chief draftsman, 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.

² The Company employs five draftsmen and one tool designer at this plant. It has no technical engineers in its employ.

³ See *Matter of Pacific Gas & Electric Company*, 47 N. L. R. B. 264; *Matter of General Motors Corporation*, 53 N. L. R. B. 1325; *Matter of Phelps Dodge Corporation*, 56 N. L. R. B. 1560; *Matter of Pacific States Steel Corporation*, 57 N. L. R. B. 1084.

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 payroll 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 Heidbrink Division of the Ohio Chemical and Manufacturing Company, Minneapolis, Minnesota, 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 Eighteenth 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 payroll period immediately preceding the date of this Direction, including employees who did not work during said payroll 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 Local 101, International Federation of Technical Engineers, Architects, and Draftsmen's Union, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.