

In the Matter of AMERICAN LAUNDRY MACHINERY COMPANY and UNITED ELECTRICAL, RADIO & MACHINE WORKERS OF AMERICA, C. I. O.

Case No. 3-R-1115.—Decided March 28, 1946

Messrs. Charles S. Wilcox and Charles D. Mercer, of Rochester, N. Y., for the Company.

Messrs. Hugh Harley, Jr., and James Annacone, of Rochester, N. Y., for the C. I. O.

Mr. Herbert W. Clements, of Rochester, N. Y., for the A. F. L.

Mr. Phil E. Thompson, 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, affiliated with the Congress of Industrial Organizations, herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of American Laundry Machinery Company, Rochester, New York, herein called the Company, the National Labor Relations Board, herein called the Board, provided for an appropriate hearing upon due notice before James R. Hemingway, Trial Examiner. Said hearing was held at Rochester, New York, on January 24, 1946. The Company, the C. I. O., and International Molders & Foundry Workers Union, affiliated with the American Federation of Labor, herein called the A. F. L., appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing upon the issues. The Trial Examiner's rulings are free from prejudicial error and are hereby affirmed. All parties were afforded full 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

American Laundry Machinery Company, an Ohio corporation, is engaged in the manufacture of laundry machinery and castings at its

plant in Rochester, New York. During the year prior to the date of the hearing the Company purchased raw materials valued in excess of \$1,000,000, 80 percent of which was shipped in from points outside the State of New York. During the same period the Company sold finished products valued in excess of \$5,000,000, over 78 percent of which was shipped to points outside the State of New York.

The Company admits that it 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, is a labor organization admitting to membership employees of the Company.

International Molders & Foundry Workers Union, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On December 18, 1945, both the C. I. O. and A. F. L. requested recognition as the collective bargaining agent of certain of the Company's employees.

The Company refuses to recognize either union until it has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced in evidence at the hearing, indicates that the C. I. O. and the A. F. L. both represent 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 C. I. O. seeks a unit limited to production and maintenance employees in the foundry division of the Rochester plant. The A. F. L. concurs in the unit petitioned for. The Company contends that only a plant-wide unit is appropriate.

Pursuant to a petition filed by the C. I. O., the Board, on June 30, 1943, directed an election in a plant-wide unit of the Company's employees.² The C. I. O. lost the election. The Company contends that

¹The report states that the C. I. O. submitted 89 authorization cards and that the A. F. L. submitted 75 authorization cards. There are approximately 172 employees in the unit.

²*Matter of American Laundry Machinery Co.*, 50 N. L. R. B. 995

the prior plant-wide unit determination of the Board precludes a finding of a smaller unit in this proceeding. We do not agree. The Board has consistently held that a prior determination of an appropriate unit is not conclusive, where such prior determination has not resulted in a certification or in a history of collective bargaining.³

The foundry is physically separated from the other plant operations. It has separate and distinct supervision, pay rolls, working hours, and employee classifications. There is no interchange of foundry employees with employees of other divisions. In view of the foregoing, we are of the opinion that the foundry employees constitute a distinct, integrated, and homogeneous group, that can effectively function as a separate unit for the purposes of collective bargaining.⁴

The parties further disagree as to the following categories of employees.

Pattern Clerk: The Company and the A. F. L. would include and the C. I. O. would exclude this employee. His primary duty is to expedite all work in process in the foundry. He checks molds and patterns on the molding floors and checks the core room to see that cores are ready for the molders. He spends approximately 1½ hours daily recording the type and amount of work completed by the various molders. This latter record is used by the accounting department for piece-work pay computations; however, the pattern clerk has nothing to do with either the submission or the analysis of this record for timekeeping purposes. He spends a substantial part of his time in the performance of such manual duties as the selection and storing of patterns and core boxes, and the checking and stenciling of castings for shipment. He has no supervisory authority. We shall include the pattern clerk.⁵

Pattern Storage Clerk: This is a part-time employee who works mornings in the pattern storage office located in the foundry office building, but in a room separate from the regular foundry office. His duties are entirely clerical. He makes up a daily list of production for the production manager, who is his immediate supervisor. He writes up job cards on incoming orders for castings required, keeps all pattern records and makes up daily piece-work lists for accounting department pay-roll purposes. His supervision duties and place of employment are separate and distinct from those of foundry production and maintenance employees. We shall exclude the pattern storage clerk.⁶

³ *Matter of Bethlehem Steel Company, Sparrows Point Plant*, 64 N. L. R. B. 352; *Matter of Thomasville Chair Co.*, 54 N. L. R. B. 1071.

⁴ *Matter of Textile Machine Works, Inc.*, 65 N. L. R. B. 1030; *Matter of Wright Aeronautical Corp.*, 45 N. L. R. B. 1104; In *Matter of American Laundry Machinery Co.*, 50 N. L. R. B. 995, the Company contended that the foundry unit was appropriate.

⁵ *Matter of Consolidated Vultee Aircraft Corporation*, 58 N. L. R. B. 300, and cases cited therein.

⁶ *Matter of Pyott Foundry & Machine Co.*, 60 N. L. R. B. 245.

Inspector: The Company employs one inspector, whom the C. I. O. would exclude and the Company and the A. F. L. would include. He works in the cleaning room where he checks all castings to see if they are sound and in proper condition for the machine shop. Defects are reported to the foundry foreman for correction and the inspector exercises no supervisory authority over employees whose work he inspects. Although the inspector has assumed some supervisory duties in isolated instances of the foreman's illness or absence, it is clear that he does not exercise such authority in the normal performance of his inspection duties. We shall include the inspector.⁷

Watchmen: The Company employs three watchmen in the foundry division, whom the Company and the A. F. L. would include and the C. I. O. would exclude. They perform the customary duties of watchmen, spend most of their time at the foundry gate, and are also assigned some janitor and maintenance duties in foundry buildings. They are neither militarized nor deputized. Inasmuch as their function is custodial, and not monitorial, we shall include the watchmen.⁸

Truck Driver: The C. I. O. and the A. F. L. would exclude and the Company would include a truck driver who is primarily engaged in hauling slag and other waste materials from the foundry operations to a dump located off the Company's premises. At times he also hauls castings to the freight house for shipment. We are of the opinion that the truck driver has sufficiently dissimilar interests and conditions of employment from those of other laundry employees to warrant his exclusion. We shall exclude the truck driver.⁹

We find that all production and maintenance employees in the foundry division of the Company's plant at Rochester, New York, including the pattern clerk, inspector, and watchmen, but excluding the part-time pattern storage clerk, pattern makers, truck drivers, office clerical, and 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.

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 employees in the appropriate unit who were employed during the pay-roll period

⁷ *Matter of Ideal Roller & Manufacturing Co.*, 60 N. L. R. B. 1105.

⁸ *Matter of Lectrolite Corporation*, 63 N. L. R. B. 369; *Matter of Sylvania Industrial Corp.*, 61 N. L. R. B. 1585.

⁹ *Matter of Wilson & Company, Inc.*, 62 N. L. R. B. 895.

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 American Laundry Machinery Company, Rochester, N. Y. 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 Third 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 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 United Electrical, Radio & Machine Workers of America, affiliated with the Congress of Industrial Organizations, or by International Moulders & Foundry Workers Union, Local No. 11, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

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