

In the Matter of ODENBACH SHIPBUILDING CORPORATION and UNITED  
STEELWORKERS OF AMERICA, CIO

*Case No. 3-R-1149.—Decided April 10, 1946*

*Messrs. Charles D. Mercer and Glenn L. Snyder, of Rochester, N. Y.,  
for the Company.*

*Mr. Theodore W. Powers, of Rochester, N. Y., for the USA.*

*Mr. Conrad A. Wickham, Jr., 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 USA, alleging that a question affecting commerce had arisen concerning the representation of employees of Odenbach Shipbuilding Corporation, Rochester, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis S. Belkin, Trial Examiner. The hearing was held at Rochester, New York, on February 6, 1946. The Company and the USA 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

Odenbach Shipbuilding Corporation is a corporation organized and existing under and by virtue of the laws of the State of New York with its office and principal place of business in the town of Greece, Monroe County, New York, where it is engaged in the construction of barges, floating cranes, and shoal tractors. During the past calendar year, the Company purchased raw materials consisting of iron, steel,

and engines, approximately 25 percent of which was shipped to the Company from points outside the State of New York. Within this period, practically all of the finished products of the Company were delivered either to the United States Government or to a corporation owned by it.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE ORGANIZATION INVOLVED

United Steelworkers of America, CIO, 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 USA as the exclusive bargaining representative of the Company's production and maintenance employees until such time as it has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the USA represents a substantial number of employees in the unit hereinafter found appropriate.<sup>1</sup> Counsel for the Company objected to the proof, contending that the signatures on the authorization cards shown the Board agent by the Union should be checked against photostatic copies of the given employees' signatures in possession of the Company before being accepted as evidence of a substantial interest. We have heretofore affirmed the Trial Examiner's overruling of this objection.<sup>2</sup>

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

There does not appear to have been any previous history of collective bargaining. The parties agree that the appropriate unit should

<sup>1</sup> The Field Examiner reported that the USA submitted 132 authorization cards, that the names of 103 persons appearing on the cards were listed on the Company's pay roll of January 4, 1946, said pay roll containing the names of 387 employees in the appropriate unit, and that the submitted authorization cards were dated in October, November, and December 1945.

Although this showing is equal to 26.6 percent of the employees in the appropriate unit, it is sufficient to warrant a determination of representatives inasmuch as the Company has previously been found to have violated Section 8 (1) and (3) of the Act in *Matter of Odenbach Shipbuilding Corporation*, 64 N. L. R. B. 1026, in which decision issued November 29, 1945, and in which International Brotherhood of Boilermakers, Iron Shipbuilders and Helpers of America, A. F. L., was the charging union. To date there has been no compliance with the Board's order in this matter, indicating that the petitioning union may have been handicapped by these violations in its efforts to secure signed authorizations as bargaining representatives. See *Matter of Thompson Products, Inc.*, 63 N. L. R. B. 1495; *Matter of Humble Oil and Refining Company*, 53 N. L. R. B. 116.

<sup>2</sup> *Matter of H. G. Hill Stores, Inc., Warehouse*, 39 N. L. R. B. 874, *Matter of H. R. Siskin & Sons*, 41 N. L. R. B. 187.

include all production and maintenance employees, but exclude supervisory employees as hereinafter set forth in our finding in the following paragraph.

We find that all production and maintenance employees of the Company, including gang leaders, stock chasers, and tool and stockroom attendants, but excluding clerical and office employees, guards, assistant foremen, foremen, and 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, 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 Odenbach Shipbuilding Corporation, town of Greece, New York, 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 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 or not they desire to be represented by United Steelworkers of America, CIO, for the purposes of collective bargaining.