

IN THE MATTER OF ADLER METAL PRODUCTS CORP. and UNITED STEEL-
WORKERS OF AMERICA, C. I. O.

Case No. 14-R-1350.—Decided April 15, 1946

Messrs. Jack Adler and Meyer Blocker, of St. Louis, Mo., for the Company.

Mr. Robert W. McVay, of St. Louis, Mo., for the Union.

Mr. James Zett, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, C. I. O., herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of Adler Metal Products Corp., St. Louis, Missouri, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Ryburn L. Hackler, Trial Examiner. The hearing was held at St. Louis, Missouri, on February 15, 1946. 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 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

Adler Metal Products Corp. is a Missouri corporation with its office and principal place of business in St. Louis, Missouri, where it is engaged in the manufacture, sale, and distribution of metal office furniture and fixtures.

During the period from September 1, 1945 to January 31, 1946, the Company purchased raw materials valued at approximately \$15,000

of which approximately 63 percent was purchased outside of the State of Missouri. During this same period, the Company manufactured finished products valued at approximately \$50,000, of which \$1,200 in value represents extra-Statê sales. The balance of the finished products, valued at approximately \$49,000, was sold in St. Louis, Missouri, to the American Metal Products Corp. which in turn sold and delivered 90 percent of such products outside the State of Missouri.

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

II. THE ORGANIZATION INVOLVED

The United Steelworkers of America is a labor organization, affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

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

A statement of the Trial Examiner, 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

Both the Union and the Company agree that the appropriate unit consists of all production employees of the Company, excluding clerical employees and the superintendent. The Company, however, would include, and the Union exclude, foremen.

The testimony of the Company's president indicates that the foremen have authority to make reports and recommendations as to the hire, discharge, and discipline of employees. The foremen accord-

¹ The Trial Examiner reported that the Union submitted 38 application for membership cards, bearing apparently genuine signatures: 12 cards were postmarked, and 7 dated, in November 1945, 2 were dated in February 1946, and 17 were neither dated nor postmarked.

The Company objected to this statement being read into the record on the ground that the cards represented a very small fraction, at best, of its current employees. It contended that the signatures were of former employees who worked for the Company only 3 or 4 days. The Company declined to furnish a pay roll, but offered to check the names against a pay roll, and furnish the Board with exact data on the period of employment of the persons whose signatures appeared on the cards. This offer was rejected by the Trial Examiner on the ground that disclosure of the names would be contrary to established Board policy.

There are approximately 34 employees in the appropriate unit.

ingly will be excluded from the appropriate unit as supervisory employees.

We find that all production employees of the Company at its St. Louis, Missouri, plant excluding clerical employees, foremen, the superintendent 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

The Company contends that an election would be inappropriate at the present time because it does not have a full working complement, and because there has been a serious turn-over² among its employees since its operations, which were closed down by the War Production Board in 1942, were recommended in late August 1945. The Company has been operating against odds, with a skeleton crew averaging 30 employees, but it has managed to produce completed steel cabinets, and will continue to do so in the future, with the skeleton crew if necessary. The Company's president testified that all departments, though under-manned, were operating at the time of the hearing. Its present complement is clearly a representative group, and constitutes 30 percent of its anticipated full complement. We are therefore of the opinion that an election at the present time is appropriate.

The record does not afford a basis for exact prediction³ as to the number of additional employees the Company is likely to recruit within a definite number of months. We shall, however, entertain a new representation petition affecting the employees involved herein within a period less than 1 year, but not sooner than 6 months, from the date of any certification that we may issue in the instant proceedings, upon proof (1) that the number of employees in the appropriate unit is more than double the number of employees eligible to vote in the election hereinafter directed; and (2) that the petitioning labor organization represents a substantial number of employees in the expanded unit.⁴

² At the hearing the president of the Company testified that: it had hired 127 employees since August 1945; there were 34 in its employ at the time of the hearing; its highest employment peak attained in this period netted 40-50 employees; only a very small percentage of its employees remained longer than a week; it had discharged only 1 employee, and its estimated full complement was 115 employees.

³ The Company declined to produce a pay roll or other pertinent data which would reveal its employment prospects with any degree of exactness. For over 5 months the Company had unsuccessfully endeavored to attain a complement of 115 employees. At the hearing the president of the Company testified that he anticipated, with a little luck in hiring and retaining employees, a full complement within 120 days.

⁴ *Matter of Aluminum Company of America*, 52 N. L. R. B. 1040; *Matter of Westinghouse Electric & Manufacturing Co.*, 38 N. L. R. B. 404.

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 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 Adler Metal Products Corp., St. Louis, Missouri, 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 Fourteenth 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, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.