

In the Matter of MILLER-CONNELL MFG. Co. and UNITED STEELWORKERS
OF AMERICA, C. I. O.

Case No. 13-R-3495.—Decided July 2, 1946

Pritzker, Pritzker & Clinton, by Mr. Stanford Clinton, of Chicago, Ill., for the Company.

Messrs. O. H. Mills and Ben Fischer, of Chicago, Ill., for the C. I. O.

Messrs. Daniel J. O'Brien, John Hill, and Kenneth Hindley, of Chicago, Ill., for the A. F. of L.

Mr. Elmer P. Freischlag, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

Upon a petition duly filed by United Steelworkers of America, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of Miller-Connell Mfg. Co., Chicago, Ill., herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert Ackerberg, Trial Examiner. Hearing was thereupon held at Chicago, Illinois, on April 29, and May 2, 1946. On May 10, 1946, before transfer of the case to the Board, an election was conducted pursuant to Article III, Section 3, of the Board's Rules and Regulations,¹ among employees of the Company in the unit alleged as appropriate in the petition, to determine whether or not they desired to be represented by the C. I. O. for the purposes of collective bargaining.

At the close of the election, a Tally of Ballots was prepared which evidenced its results. This Tally, which has been made a part of the record, shows that there were approximately 212 eligible voters, that 188 of those eligible voters cast ballots, of which 163 were for the C. I. O., 19 were against the C. I. O., 2 were void, and 4 were challenged.

¹ By amendment of November 27, 1945, this Section of the Rules now permits the conduct of a secret ballot of employees prior to hearing, or after hearing but before transfer of the case to the Board, in cases which present no substantial issues.

Thereafter, pursuant to Article III, Section 10,² of the Rules and Regulations of the Board, a further hearing was held on May 16, 1946, upon due notice. The Company, the C. I. O., and Local 718, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, A. F. of L., herein called the A. F. of L., appeared and participated at the initial hearing; only the Company participated at the further hearing.³ 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 hearings 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

Miller-Connell Mfg. Co., an Illinois corporation with its main office and factory located in Chicago, Illinois, is engaged in the manufacture of venetian blinds. The Company purchases annually raw materials consisting of steel, wood, tape, cord, and paint, valued at approximately \$500,000, of which \$75,000 worth represents shipments to it from points outside the State of Illinois. Approximately \$300,000 worth of the Company's finished products is shipped annually to points outside the State.

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

II. THE ORGANIZATIONS INVOLVED

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

Local 718, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

² As amended November 27, 1945, this Section provides that in instances of elections after hearing but before transfer of the case to the Board all issues, including issues with respect to the conduct of the election or conduct affecting the election results and issues raised by challenged ballots, shall be heard at the subsequent hearing.

³ The A. F. of L. withdrew from the hearing on May 2, 1946. Its signed Waiver and Disclaimer, waiving any right, power or privilege to intervene in and disclaiming any interest in the case was admitted into evidence just before such withdrawal.

The C. I. O. did not appear or participate in the hearing on May 16, 1946, although notice thereof was served upon it. In this connection, the record shows that the C. I. O. had previously indicated to the Trial Examiner that it had no objection to the holding of the hearing on that date.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the C. I. O. as the exclusive bargaining representative of its employees in the alleged appropriate unit.

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. and the Company agree that all production and maintenance employees of the Company, excluding office and clerical employees, watchmen, foremen, and all other supervisory employees, constitute an appropriate unit. They disagree, however, as to the head fireman, assistant firemen, and mechanics, whom the C. I. O. would include in and the Company exclude from the appropriate unit. The C. I. O. also seeks to include Robert Williams and Guy Vaughn, while the Company takes no position in the matter.

Head Fireman: This employee fires the boiler located in the basement of the plant. During the winter or heating season, when the boiler room operates on a three shift basis, he is assisted by two assistant firemen, and the three employees take turns working an 8-hour shift each day. During this season, the head fireman has the authority to hire, discharge, and discipline these subordinates. During the summer or non-heating season, he works in the boiler room unassisted. Despite his lack of subordinates during the non-heating season, it does not appear that the head fireman undergoes any change in wages, working conditions, or status. Under all the circumstances, and on the entire record in the case, we are persuaded that the head fireman is a supervisory employee within the Board's customary definition of that term. We shall, therefore, exclude him from the unit.⁴

Assistant Firemen: As noted above, the two assistant firemen fire the boiler during the winter or heating season. The record fails to disclose the nature of their duties the balance of the year. However, inasmuch as they apparently exercise no supervisory functions, and fall within the general category of maintenance employees, we shall include them in the unit.⁵

Mechanics: The Company employs two individuals in this classification. They work under the supervision of the maintenance foreman, and their duties consist of repairing and cleaning machinery

⁴ Cf. *Matter of Hunt Foods, Inc.*, 68 N. L. R. B. 800

⁵ *Matter of Anchor Duck Mills*, 63 N. L. R. B. 1079. *Matter of The Dayton Rubber Manufacturing Company*, 57 N. L. R. B. 388.

operated by the production employees. It is clear that their interests are closely related to those of the other production and maintenance employees. Accordingly, we shall include them in the unit.⁶

Robert Williams and Guy Vaughn: These two employees are steel painters and work on the steel painting machine in the steel painting and cutting section of the plant, under the supervision of the plant superintendent. Robert Williams works on the night shift and Guy Vaughn on the day shift. In addition to operating their machines, each one has the responsibility of indicating to the men operating the cutting machine in this section the material to be processed by them. Williams has the further responsibility of seeing that none of the three men operating the cutting machine on his shift fall asleep. The record, however, fails to indicate that Williams and Vaughn possess any supervisory authority within our usual definition of the term. Accordingly, inasmuch as these two employees, like the other steel painters in the unit, perform an essential part of the production process, we shall include them.

We find, therefore, that all production and maintenance employees of the Company, including assistant firemen, mechanics, and steel painters,⁷ but excluding office and clerical employees,⁸ watchmen, the head fireman, foremen, 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.

V. THE DETERMINATION OF REPRESENTATIVES

The results of the election show that the C. I. O. has secured a majority of the votes cast, and that the challenged ballots would not affect the results of the election. We shall, therefore, certify the C. I. O. as the collective bargaining representative of the employees in the unit found appropriate in Section IV, above.

CERTIFICATION OF REPRESENTATIVES

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, Sections 9 and 10, of National Labor Relations Board Rules and Regulations—Series 3, as amended,

IT IS HEREBY CERTIFIED that United Steelworkers of America, C. I. O., has been designated and selected by a majority of all production

⁶ See *Matter of Hicks-Hayward Company*, 58 N. L. R. B. 1557.

⁷ Including Robert Williams and Guy Vaughn.

⁸ This includes the clerical employee in the shipping section, whom the C. I. O. seeks to exclude and as to whom the Company raises no objection.

and maintenance employees of Miller-Connell Mfg. Co., Chicago, Illinois, including assistant firemen, mechanics, and steel painters, but excluding office and clerical employees, watchmen, the head fireman, foremen, 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, as their representative for the purposes of collective bargaining, and that pursuant to Section 9 (a) of the Act, the said organization is the exclusive representative of all such employees for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other conditions of employment.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Certification of Representatives.