

IN the Matter of WELLS-GARDNER & Co., EMPLOYER and INTERNATIONAL ASSOCIATION OF MACHINISTS, DIE AND TOOL MAKERS LODGE No. 113, PETITIONER

Case No. 13-R-3738.—Decided October 3, 1946

Mr. Joseph L. Pemberton, of Chicago, Ill., for the Employer.

Mr. P. L. Siemiller, of Chicago, Ill., for the Petitioner.

Messrs. M. F. Darling and *Ray J. Zacharski*, of Chicago, Ill., for the Intervenor.

Mr. Benj. E. Cook, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

Upon a petition filed, hearing in this case was held at Chicago, Illinois, on August 9, 1946, before Sidney Grossman, hearing officer. At the hearing, the Intervenor moved to dismiss the petition on the ground that the unit sought is inappropriate. For the reasons stated in Section III, *infra*, the motion to dismiss is hereby denied. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Wells-Gardner & Co., an Illinois corporation, has its principal office and plant in Chicago, Illinois, where it is engaged in the manufacture of radios. During the past 12 months, the Employer purchased raw materials valued in the amount of \$61,928.90, 100 percent of which was shipped to its plant from points outside the State of Illinois. During the same period, the Employer's sales were valued in the sum of \$6,646,075.16, approximately 90 percent of which was transported to points outside the State of Illinois.

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

II. THE ORGANIZATIONS INVOLVED

The Petitioner is a nonaffiliated labor organization claiming to represent employees of the Employer.

International Brotherhood of Electrical Workers, Local B-1031 herein called Intervenor, is a labor organization affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize the Petitioner as the exclusive representative of employees of the Employer until the Petitioner has been certified by the Board in an appropriate unit.

Since 1937, the Intervenor has represented the Employer's production and maintenance employees under successive collective bargaining agreements. Under its current contract, all employees of the laboratory or engineering department, which department includes the model shop employees sought herein, are specifically *excluded*, and the Intervenor admits that it has never represented the model shop employees for collective bargaining purposes. It argues, however, that should the Board determine that model shop employees are toolmakers, these employees would then come within the unit it currently represents and its contract would therefore be a bar to the instant proceeding. Although the model makers have formerly worked as toolmakers, these employees are presently engaged as model makers and are so classified by the Employer. Inasmuch as the model makers, as employees of the laboratory or engineering department, are excluded from the Intervenor's current contract, we find that the contract is not a bar to this proceeding.

We find that a question affecting commerce has arisen concerning the representation of employees of the Employer, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Petitioner seeks a unit comprising all employees in the Employer's model shop excluding office, clerical, and supervisory employees. The Employer and the Intervenor oppose the establishment of a unit confined to the model shop on the ground that it is an integral part of the engineering department; they further contend that if the Board finds any unit appropriate, it should include all employees in the engineering department.

The Engineering Department is divided into four subdivisions, *viz*, electrical engineering and design, mechanical engineering and

design, drafting room, and model room. Each subdivision is under the immediate direction of its own supervisor, and each is responsible directly to the chief engineer. The electrical engineers design the circuits and component radio parts in such manner that the mechanical engineers may design the models and the model makers construct models in accordance with instructions from the mechanical engineering division. The models are then transmitted to the drafting division where blueprints and specifications are made. The model makers work in a room physically separated from the other divisions of the engineering department, all of their work is performed in the model shop, and there is no interchange of personnel between the model shop and other divisions of the department. Although model makers are not required to have a technical education, they do possess a high degree of skill as machinists and have had extensive training as model makers.

It is apparent that the model makers have interests in common with the employees in the other divisions of the engineering or laboratory department and therefore might properly be included in a unit comprising all employees of the entire department. However, the model makers constitute a homogeneous, identifiable group, having a separate supervision and skills and interests which differ substantially from the other employees in the engineering department. Moreover, organization of the engineering employees has not extended beyond the model shop. In view of the physical and organizational separation of the model shop, the absence of interchange of employees between it and the other divisions of the engineering department, and the limited extent of organization, we are of the opinion that the employees of the model shop alone at this time may constitute a separate appropriate unit.

We find that all employees of the model shop of the Employer's engineering department, excluding office employees and all 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.

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Gardner-Wells & Co., Chicago, Illinois, 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 Thirteenth Region, acting in this matter as agent for the Na-

tional Labor Relations Board, and subject to Sections 203.55 and 203.56, of National Labor Relations Board Rules and Regulations—Series 4, 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 International Association of Machinists, Die and Tool Makers Lodge No. 113, or by International Brotherhood of Electrical Workers, Local B-1031, for the purposes of collective bargaining, or by neither.