

In the Matter of AIRLASTIC RUBBER COMPANY, EMPLOYER *and* UNITED RUBBER, CORK, LINOLEUM AND PLASTIC WORKERS OF AMERICA, C. I. O., PETITIONER

*Case No. 13-R-4537.—Decided April 12, 1948*

*Mr. Robert W. MacDonald*, of Chicago, Ill., for the Employer.

*Mr. Manson L. James*, of Chicago, Ill., for the Petitioner.

## DECISION

AND

## DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at Chicago, Illinois, on January 28, 1948, before John P. Von Rohr, hearing officer.<sup>1</sup> 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

Airlastic Rubber Company, a Delaware corporation, is engaged in the manufacture of automobile weatherstripping at its sole plant located at Chicago, Illinois. During the past year, the Employer purchased raw material, consisting chiefly of crude rubber and synthetics, valued in excess of \$25,000, of which about 80 percent was shipped to the plant from points outside the State of Illinois. During the same period the Employer manufactured products valued in excess of \$25,000, of which about 75 percent was shipped to points outside the State of Illinois.

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

<sup>1</sup> Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the National Labor Relations Board has delegated its powers in connection with this case to a three-man panel consisting of Board Members Houston, Reynolds, and Gray.

II. THE ORGANIZATION INVOLVED<sup>2</sup>

The Petitioner is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.

## III. THE QUESTION CONCERNING REPRESENTATION

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

We find that a question affecting commerce exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

## IV. THE APPROPRIATE UNIT

The parties agree that production and maintenance employees at the Employer's Chicago plant, excluding all office clerical employees and supervisors, constitute an appropriate unit. The Employer, however, would exclude five maintenance employees on the ground that they are watchmen. The Petitioner would include them as maintenance employees.

The five employees in dispute are on the designated pay roll as maintenance employees. During the regular workweek, they serve as janitors and are under the same supervision as other production and maintenance employees. However, during the weekend and on any emergency shut-down of the plant, the men are employed on shifts solely as watchmen. Inasmuch as the employees in dispute serve as janitors during the normal workweek and their employment as watchmen is irregular and restricted to times when the plant is not in operation, we find that they are employed as janitors and not as guards within the meaning of Section 9 (b) (3) of the Act, as amended.<sup>3</sup> Accordingly we shall include them as maintenance employees in the unit.

We find that all production and maintenance<sup>4</sup> employees at the Employer's Chicago, Illinois, plant, but excluding office clerical employees, guards, and supervisors, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

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<sup>2</sup> Rubber and Plastic Workers Union, Local 82, a labor organization affiliated with the American Federation of Labor, moved to intervene. Inasmuch as this labor organization did not show any colorable claim of representation among the employees herein concerned, the hearing officer properly denied this request.

<sup>3</sup> *Matter of Radio Corporation of America*, 76 N L R B. 826; *Matter of Steelweld Equipment Company*, 76 N L R B. 831; *Matter of C. V. Hill & Company, Inc.*, 76 N L R B 158.

<sup>4</sup> Included among the maintenance employees in the unit are the janitors discussed above.

## DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Airlastic Rubber Company, 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, and subject to Sections 203.61 and 203.62, of National Labor Relations Board Rules and Regulations—Series 5, 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, 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, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented by United Rubber, Cork, Linoleum and Plastic Workers of America, C. I. O., for the purposes of collective bargaining.

MEMBER REYNOLDS took no part in the consideration of the above Decision and Direction of Election.