In the Matter of AMERICAN CHAIN AND CABLE COMPANY, INC., EMPLOYER *and* PATTERN MAKERS LEAGUE OF NORTH AMERICA, DISTRICT NO. 3, A. F. OF L., PETITIONER

Case No. 4-R-2752.—Decided May 24, 1948

DECISION

AND

DIRECTION OF ELECTION

Upon a petition duly filed, an original hearing in this case was held at York, Pennsylvania, on November 24, 1947, before Helen F. Humphrey, hearing officer. At this hearing, the hearing officer erroneously limited the intervention of the United Steelworkers of America, CIO, herein called the Intervenor, to the contract bar issue by reason of the fact that the Intervenor had not complied with Section 9 (f), (g), and (h) of the Act.

On February 17, 1948, the Board, having reversed the hearing officer's ruling, directed that the record be reopened and a further hearing be held for the purpose of affording the Intervenor the full exercise of its right to intervene in the proceeding. Thereafter a further hearing was held before John H. Garver, hearing officer. At the hearing, the Intervenor was afforded an opportunity to introduce evidence as to all issues in the case. The rulings made by the hearing officers at the several hearings are free from prejudicial error with the exception noted above and are hereby affirmed. All parties were afforded opportunity to file briefs in support of their respective positions.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members.*

Upon the entire record in this case, the Board finds the following undisputed facts:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The labor organizations named below claim to represent employees of the Employer.

In addition to the foregoing findings, the Board, upon the entire record in this case, makes the following findings with respect to disputed issues of fact.

*Chairman Herzog and Members Houston and Reynolds.

THE QUESTION CONCERNING REPRESENTATION [1]

The Employer has refused to recognize the Petitioner until it is 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.

THE APPROPRIATE UNIT; THE DETERMINATION OF REPRESENTATIVES

The Petitioner seeks a unit of all pattern makers and apprentices at the Employer's York, Pennsylvania, plant, excluding the pattern-maker foreman and all supervisors. The Employer and the Intervenor contend that only a comprehensive production and maintenance unit, including pattern makers, is appropriate. In support of their position, the Employer and the Intervenor allege as grounds for denying the claim of pattern makers to separate representation: (1) that the Employer has a long history of collective bargaining upon an over-all basis; [2] and (2) that the employees referred to as pattern makers are not in fact craft employees of the type which the Board has customarily found might constitute an appropriate bargaining unit.

The Board has frequently held that a well-recognized craft group such as pattern makers, for whom separate bargaining units exist in the industry concerned, may, if they so desire, constitute a separate unit notwithstanding the existence of a long over-all bargaining history on the part of the individual employer.[3] Accordingly, the only question remaining for determination in this proceeding is whether or not the pattern makers involved herein are craft employees of the type to whom the Board has customarily accorded separate representation in the face of an over-all history of collective bargaining.

The record discloses that, while the employees claimed by the Petitioner as an appropriate unit do not, in the course of their employment, exercise the whole gamut of skills within the pattern makers' craft,[4] they nevertheless perform the usual functions of pattern makers en-

[1] The contention of the Employer and the Intervenor that their contract bars the present proceeding is without merit as the Petitioner's request for recognition and the filing of its petition for certification occurred prior to the execution of such agreement. See *Matter of Public Service Corporation of New Jersey*, 72 N. L. R. B. 224; *Matter of National Chair Company, Inc.*, 74 N. L. R. B. 1014.

[2] Since 1938 the Employer has bargained collectively under a series of contracts with the Intervenor and its predecessor for all the Employer's production and maintenance employees, including pattern makers.

[3] *Matter of Kaiser-Frazer Corporation*, 73 N. L. R. B. 109; *Matter of York Corporation*, 74 N. L. R. B. 117, *Matter of Dow Chemical Company*, 77 N. L. R. B. 328.

[4] It is admitted in the record that the pattern makers' group does not engage in the making of wood or master patterns, but is concerned only with metal patterns.

gaged in the making and finishing of metal patterns.[5] Moreover, it is clear that, notwithstanding the fact that the employees described as pattern makers use equipment which in many respects is identical with that used by machinists, such employees, as distinguished from machinists, are required to use certain knowledge and training peculiar to the pattern makers' craft.

In view of the foregoing considerations and upon the entire record in the case, we find that the employees referred to as pattern makers in this proceeding are employed as craft employees within the usual meaning of this term in its relation to the pattern makers' craft. We believe that they may, if they so desire, constitute a separate unit, notwithstanding their previous inclusion in a broader unit. However, the Board will not make any unit determination until it has first ascertained the desires of the employees involved.

We shall direct that an election be held among all pattern makers and their apprentices employed by the Employer at its York, Pennsylvania, plant, excluding the pattern-maker foreman and all other supervisors as defined in the Act. If, in this election, the employees select the Petitioner, they will be taken to have indicated their desire to constitute a separate bargaining unit. We shall not place the Intervenor's name on the ballot, inasmuch as it has not complied with Section 9 (f), (g), and (h) of the Act, as amended.

DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, an election by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of the Regional Director for the Region in which this case was heard, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations—Series 5, among the employees in the voting group described above, who were employed during the pay-roll period immediately preceding the date of this Direction of Election, 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, for the purposes of collective bargaining by Pattern Makers League of North America, District No. 3, A. F. of L.

[5] The only two pattern makers who testified stated that they were employed as journeymen pattern makers

[6] *Matter of Rite-Form Corset Company, Inc.*, 75 N L R B. 174