

In the Matter of BENJAMIN EASTWOOD COMPANY, EMPLOYER *and* INTERNATIONAL MOLDERS AND FOUNDRY WORKERS UNION OF NORTH AMERICA, A. F. L., PETITIONER

Case No. 2-UA-87.—Decided June 23, 1948

Messrs. James Eastwood, Jr., and George Phelan, of Paterson, N. J., for the Employer.

Mr. Alfred L. Cook, of New York City, for the Petitioner.

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at New York City, on January 28, 1948, before Robert Silagi, hearing officer. 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

The Employer, a New Jersey Corporation with its principal office and place of business in Paterson, New Jersey, operates an iron foundry and machine shop. During the year 1947 it purchased raw materials valued in excess of \$100,000, of which approximately 75 percent represented shipments from points outside the State of New Jersey. During the same period, the Employer manufactured finished products valued in excess of \$500,000, of which approximately 50 percent was shipped to points outside the State.

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

II. THE ORGANIZATION INVOLVED

The Petitioner is a labor organization, affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

III. QUESTION CONCERNING AUTHORIZATION OF A UNION SHOP

Pursuant to a Decision and Direction of Election issued by the Board on March 14, 1947,¹ an election was conducted, and the Petitioner herein was subsequently certified in the following unit:

All production and maintenance employees at the Employer's Paterson, New Jersey plant, excluding assistant foremen and all other supervisory employees

Thereafter the Employer and the Petitioner entered into a contract covering the period between May 1, 1947, and December 31, 1947. The contract contained an automatic renewal clause for a 1-year term unless either of the parties gave written notice, 60 days before the expiration date, of a desire to amend. A timely notice was given by the Petitioner.

By the contract, the Employer recognized the Petitioner as the exclusive bargaining agent of all the employees, excluding executives, clerical and salaried employees, supervisory foremen, pattern makers, and watchmen. The union-security provisions of the contract, however, were applicable only to those employees on the foundry pay roll. The Employer, as well as the Petitioner, desires to negotiate a contract substantially the same as the previous contract.

By the petition herein, the Petitioner seeks a union-shop election, pursuant to Section 9 (e) (1) of the Act,² in a unit composed of "all those engaged in the production of castings." This unit is confined to those on the foundry pay roll, and represents no change from the union-security provisions of the contract previously executed by the parties.

We find that no question affecting commerce exists concerning the representation of employees of the Employer in the unit sought by the Petitioner.

IV. THE APPROPRIATE UNIT

The record discloses that membership in the Petitioner is limited, generally, to foundry workers, and that, as a consequence, the Petitioner now seeks a union-shop election among the foundry employees only. The foundry is located in a separate building some distance apart from the rest of the plant, and the Employer has for many years

¹ 72 N L R B. 1191.

² This section provides that "Upon the filing with the Board by a labor organization, which is the representative of employees as provided in section 9 (a), of a petition alleging that 30 per centum or more of the employees within a unit claimed to be appropriate for such purposes desire to authorize such labor organization to make an agreement with the employers of such employees requiring membership in such labor organization as a condition of employment in such unit, upon an appropriate showing thereof the Board shall, if no question of representation exists, take a secret ballot to such employees, and shall certify the results thereof to such labor organization and to the employer."

maintained a separate pay roll for the foundry employees. The foundry employees include skilled workers, i. e., molders, core makers, and apprentices; semiskilled workers, i. e., grinders, chippers, sand blasters, and cupola men; and unskilled foundry laborers.³

The Board has recently held that a unit appropriate for the purposes of Section 9 (e) (1) need not be identical in all cases with the unit appropriate for purposes of collective bargaining under Section 9 (a).⁴ Accordingly, in view of the past bargaining history of the parties, the physical separation of the foundry facilities from the remainder of the Employer's plant, the separate pay roll maintained by the Employer, and the fact that the Petitioner limits its membership to foundry workers, we find, in substantial accord with the agreement of the parties, that all employees of the Employer engaged in the production of castings, exclusive of executives, clerical employees, salaried employees, pattern makers, watchmen, and all supervisors, constitute a unit appropriate for the purposes of Section 9 (e) (1) of the Act.

DIRECTION OF ELECTION

Pursuant to Section 9 (c) (1) of the National Labor Relations Act, as amended, 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 Second Region, and subject to Section 203.61 of National Labor Relations Board Rules and Regulations—Series 5, among the employees of Benjamin Eastwood Company, Paterson, New Jersey, 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 authorize International Molders and Foundry Workers Union of North America, A. F. L., to make an agreement with Benjamin Eastwood Company, Paterson, New Jersey, requiring membership in the aforesaid labor organization as a condition of employment in such unit.

³ There is no evidence in the record indicating the number of employees in each of these classifications

⁴ *Matter of Giant Food Shopping Center, Inc*, 77 N. L. R. B. 791.