

AIR CONDITIONING AND REFRIGERATING¹ ASSOCIATION OF NORTH FLORIDA, PETITIONER *and* LOCAL UNION No. 770, UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPE FITTING INDUSTRY, AFL *and* LOCAL UNION No. 435, SHEET METAL WORKERS INTERNATIONAL ASSOCIATION, AFL

AIR CONDITIONING AND REFRIGERATING ASSOCIATION OF NORTH FLORIDA *and* LOCAL UNION No. 770, UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPE FITTING INDUSTRY, AFL, PETITIONER. *Cases Nos. 10-RM-80 and 10-RC-1577. April 28, 1952*

Decision and Direction of Election

Upon separate petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing was held before Jerold B. Sindler, hearing officer. At the hearing the Employer moved to dismiss the petition in Case No. 10-RC-1577 upon various grounds. For reasons discussed in paragraph numbered 4, *infra*, the motion is hereby denied. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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-member panel [Chairman Herzog and Members Houston and Murdock].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.²
2. The labor organizations involved claim to represent certain employees of the Employer.
3. A question affecting commerce exists concerning the representation of certain employees of the Employer, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

¹ The Association, which represents its members in collective bargaining, is the Employer for purposes of this proceeding. See *Indianapolis Cleaners and Launderers Club*, 87 NLRB 472. The Employer's name appears as amended at the hearing.

² Members of the Employer are Florida Weathermakers, Inc.; Conditionaire, Inc.; Florida Ice Machine Corporation; Merrill-York, Division of Merrill-Stevens Dry Dock and Repair Company; McMillan and Mahoney, Inc. An officer of each of the members appeared at the hearing and presented commerce facts and other evidence. Upon the entire record, and without determining whether or not the Board would assert jurisdiction as to each member were it before the Board individually, we find for purposes of this proceeding that the members, through their participation in the association group, are jointly engaged in commerce within the meaning of the Act. See *Air Conditioning Company of Southern California*, 81 NLRB 1396.

4. Local Union No. 770, United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, AFL, hereinafter referred to as the Petitioner, seeks a unit of all journeymen refrigeration, air-conditioning, and heating mechanics, their apprentices, and helpers employed by all members of the Employer. The Petitioner would exclude sheet metal workers from the unit. The Employer urges as the only appropriate unit all employees employed by all its members in manufacturing, installing, repairing, and/or servicing refrigerating, air-conditioning, and heating equipment, including sheet metal workers. Local Union No. 435, Sheet Metal Workers International Association, AFL, hereinafter referred to as the Intervenor, appeared specially to urge that sheet metal workers and their apprentices be excluded from any unit found appropriate.³

The Petitioner and the Intervenor base their unit contentions on the alleged craft status of the employees who make up their proposed units. The unit sought by the Employer, although likewise urged as a craft unit, is basically a production unit which, the Employer asserts, should not be broken down into various craft groups because of the integrated nature of the work performed by the employees. In support of its position, the Employer contends that the air-conditioning industry, as an entirely new industry, has developed from workmen in the traditional crafts of sheet metal work, plumbers, pipefitters, and electricians, an entirely new craft group known as the "air-conditioning mechanic." It asserts that air-conditioning mechanics must possess skills of each of the various crafts mentioned as well as knowledge and skills peculiar to the air-conditioning industry, and although the air-conditioning mechanics continue to use those other basic craft skills, they are no longer identified as such craftsmen.

We do not find, on the record before us, that the air-conditioning installation and servicing industry is so integrated, as urged by the Employer, as to prevent representation of craftsmen in separate appropriate units.⁴ We therefore find no merit to the Employer's contention that sheet metal workers must necessarily be included in an over-all bargaining unit. As noted above, sheet metal workers, who are employed by only two members of the Employer Association, are currently represented on a craft basis by the Intervenor. The record

³ Sheet metal workers are employed by two members of the Employer. The Intervenor represents them through contracts with an employer association not a party to this proceeding. None of the parties urges these contracts as a bar to this proceeding.

⁴ See *Ford Motor Co., Aircraft Engine Division*, 96 NLRB 1075; *Mathieson Chemical Corp.*, 96 NLRB 1060; *Cadillac Motor Car Division*, 94 NLRB 217.

shows that the work performed by these employees, although performed in connection with the installation of air-conditioning equipment, is traditional sheet metal work. The fact that they perform their craft skills for production purposes does not detract from their distinctiveness as a craft group which we find they are.⁵ In view of the fact that the sheet metal workers, their apprentices, and helpers are currently represented by the Intervenor on a separate craft basis, we find that they should properly be excluded from any unit found appropriate herein.⁶

Upon disposition of the sheet metal workers issue, an examination of the record, including testimony covering the job classifications and duties of all employees of members of the Employer, discloses that the area of difference between the unit sought by the Petitioner and that urged by the Employer is relatively narrow.⁷ The unit urged by the Employer, including those employees in the disputed categories, in effect constitutes a production unit, which we find is appropriate within the meaning of Section 9 (b) of the Act. Consequently we find it unnecessary to pass upon the craft status of the air-conditioning and refrigeration mechanics.⁸ We shall, therefore, direct an election in the following appropriate unit:⁹

All employees employed by all members of the Employer¹⁰ engaged in manufacturing, installing, repairing, and/or servicing refrigerating, air-conditioning, and heating equipment, in and around northern Florida, excluding sheet metal workers and their apprentices and helpers, warehouse employees employed by Florida Ice Machine Corp., office clerical employees, professional employees, guards, janitors, and all supervisors¹¹ as defined in the Act.

[Text of Direction of Election omitted from publication in this volume.]

⁵ See *Armstrong Cork Company (Lancaster Floor and Closure Plants)*, 97 NLRB 1057.

⁶ See *Kohlenberger Engineering Corporation*, 71 NLRB 818.

⁷ Except for the existence of a dispute with respect to the inclusion of a truck driver, a carpenter, two stockmen, and three helpers, all of whom the Petitioner would exclude from its proposed unit, the parties agree to the exclusion from either proposed unit of the usually excluded categories.

⁸ Cf. *Pointner Willamette Company, Inc.*, 93 NLRB 673.

⁹ If the Petitioner does not desire to participate in such an election at this time, we shall permit it to withdraw its petition, without prejudice, upon notice to the Regional Director within 10 days after issuance of the Decision and Direction of Election herein. *Emhart Manufacturing Company*, 96 NLRB 375.

¹⁰ See footnote 2, *supra*.

¹¹ We find that the leaderman working at Merrill-York Division of Merrill-Stevens Dry Dock & Repair Company is a supervisor as he has the authority effectively to recommend the hiring, discharge, discipline, and change of employment status of mechanics and helpers and, under the ultimate supervision of the engineer, he responsibly directs the work of the mechanics and helpers.