

also having further found it guilty of other unfair labor practices in the nature of interrogating and making threats of economic reprisals to the employees and engaging in a course of surveillance and espionage of their employees, and having found that all such acts amount to interference, restraint, and coercion of its employees in the exercise and enjoyment of their rights guaranteed under Section 7 of the Act, and because of the nature of each and all of the unfair labor practices so committed, it is recommended that Respondents not only henceforth cease and desist from such unfair labor practices so specifically found, but also that Respondents in the future cease and desist from in any manner infringing upon the rights of their employees guaranteed in Section 7 of the Act.

Upon the basis of the above findings of fact, and upon the entire record in the case, I make the following:

CONCLUSIONS OF LAW

1. The Board has jurisdiction over the Respondents which it should exercise in order to effectuate the policies of the Act.

2. International Union, United Automobile, Aircraft and Agricultural Implement Workers of America, UAW-CIO, is a labor organization within the meaning of Section 2 (5) of the Act.

3. By discriminating in regard to the hire or tenure and terms and conditions of their employment by discharging their 4 employees, Ahmo Jordan, John Waterman, Tony McKenny, and Ernest Bradley, and by failing and refusing to reinstate them and each of the said named 4 employees Respondents have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (a) (3) of the Act.

4. By said acts of discharge, and also by interrogating employee Charles Covert, by acts threatening economic reprisal to their employees and by engaging in a course of surveillance and espionage of their employees, as alleged, Respondents have interfered with, restrained, and coerced their employees in the exercise of the rights guaranteed to them in Section 7 of the Act, and have engaged in and are engaging in unfair labor practices within the meaning of Section 8 (a) (1) of the Act.

5. The aforesaid unfair labor practices affect commerce within the meaning of Section 2 (6) and (7) of the Act.

[Recommendations omitted from publication.]

G. H. R. FOUNDRY DIVISION, THE DAYTON MALLEABLE IRON COMPANY,
 PETITIONER *and* INTERNATIONAL UNION OF ELECTRICAL, RADIO AND
 MACHINE WORKERS, LOCAL 798, CIO¹ *and* UNITED ELECTRICAL,
 RADIO & MACHINE WORKERS OF AMERICA (UE) AND ITS LOCAL 768.²
Case No. 9-RM-99. July 8, 1954

Decision and Order

Upon a petition duly filed, a hearing was held before William G. Wilkerson, hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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. The labor organizations involved claim to represent employees of the Employer.

¹ Herein called IUE

² Herein called UE.

3. No 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, for the following reasons:

The Employer seeks an election among its aluminum foundry employees "employed at the GHR Foundry Division plant" in Dayton, Ohio. It is clear from the record, however, that the employees referred to in the petition were at the time of the hearing employed at the Employer's *3rd Street plant* in Dayton, Ohio, and not at its GHR plant. Since 1950, these employees have been represented by the IUE as a part of the 3rd Street plant. The most recent contract covering these employees was executed June 1, 1953, for a term of 2 years.

At the time of the hearing, the Employer was in the process of dismantling the 3rd Street plant and transferring its operations to the Employer's other plants. The aluminum foundry at the 3rd Street plant was scheduled to be moved to the GHR plant.

At its GHR plant the Employer operates an iron foundry. Pursuant to a consent election,³ the UE was certified on March 4, 1954, as the collective-bargaining representative for all production and maintenance employees at the GHR plant. On March 19, 1954, the Employer and UE executed a 2½-year contract covering these employees.

The UE contends that the addition of the aluminum foundry employees to the GHR plant will be a mere accretion to the existing certified unit, and that its certificate and contract therefore bar the instant petition. The IUE contends, on the other hand, that the scheduled transfer will constitute only a relocation of its unit at the 3rd Street plant and that its contract for that unit will continue to cover these employees, so as to bar the instant petition. The Employer takes the position that the aluminum foundry will be a new and separate appropriate unit when relocated and that therefore neither union's contract bars an election. In the alternative, the Employer takes the same position as the IUE.

It appears from the record and briefs that although the Employer plans to move the aluminum foundry in the near future, no definite time has been established for the move.

If the petition be construed as seeking an election among the aluminum foundry employees as employees of the 3rd Street plant, it is clear that the IUE contract covering all employees at that plant would bar the instant petition. If the petition be construed, on the other hand, as seeking an election among the aluminum foundry employees as employees in the GHR plant, we find that the petition is premature, and

³ Case No. 9-RC-2160. Not reported in printed volumes of Board Decisions and Orders.

should be dismissed for that reason. It is not the policy of the Board to rule on the appropriateness of a unit to be established in the future, as, under such circumstances, no present question concerning representation exists.⁴ Accordingly, we will dismiss the petition.

[The Board dismissed the petition.]

⁴ *Certain-Teed Products Corporation*, 102 NLRB 1324.

LOCAL UNION 595, INTERNATIONAL ASSOCIATION OF BRIDGE, STRUCTURAL AND ORNAMENTAL IRON WORKERS, AFL and CLYDE CRIDER. *Case No. 14-CB-207. July 8, 1954*

Decision and Order

On November 24, 1953, Arthur Leff issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent filed exceptions to the Intermediate Report and supporting brief.

The Board has reviewed the rulings made by the Trial Examiner at the hearing and finds that no prejudicial error was committed.¹ The rulings are hereby affirmed. The Board has considered the Intermediate Report, the Respondent's exceptions and brief, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

For reasons set forth in that portion of the Intermediate Report entitled "The Remedy," we agree with the Trial Examiner that the Respondent, in order to toll its back-pay obligation arising from the unfair labor practices herein, should have notified *both* Crider and R. Clinton Construction Company, his employer, that it had no objection to Crider's rehire. Because the Respondent, on September 19, 1953, by telegram so notified only Crider's employer and gave no notice whatever to Crider, we do not accept that date, urged by the Respondent, as the terminal date of its obligation. On the contrary, in accordance with the Trial Examiner's recommendation and the General Counsel's contention, we adopt instead as the terminal date October 28, 1953, on which date the Respondent formally stated on the record

¹ The Intermediate Report, otherwise correct in that respect, inadvertently misstates, in the final paragraph of section III thereof, the date of the discrimination herein as August 23, 1953, instead of August 25, 1953. We hereby correct this error, which does not affect the Trial Examiner's ultimate findings or our concurrence therein.