

In the Matter of THE LENNOX FURNACE COMPANY and SHEET METAL
WORKERS INTERNATIONAL ASSOCIATION, LOCAL 58, A. F. OF L.

Case No. 3-R-1071.—Decided January 14, 1946

Bond, Schoeneck & King, by *Mr. Lyle Hornbeck*, of Syracuse, N. Y.,
and *Mr. A. W. Wriden*, of Syracuse, N. Y., for the Company.

Messrs. Joseph J. Walsh and *Leonard J. Capuana*, of Utica, N. Y.,
for the Union.

Mr. Joseph D. Manders, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Sheet Metal Workers International Association, Local 58, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Lennox Furnace Company, Syracuse, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene von Wellsheim, Trial Examiner. The hearing was held at Syracuse, New York, on October 5, 1945. The Company and the Union appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Lennox Furnace Company, an Iowa corporation, authorized to do business in the State of New York, is engaged in the manufacture of furnaces, light gauge sheet metal parts and rough castings. During the period from September 1, 1944 to September 1, 1945, the Company
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used at its plant raw materials of a value exceeding \$250,000, of which approximately 75 percent was obtained from points outside the State of New York. During the same period the Company manufactured at its plant finished products of a value exceeding \$250,000, of which 75 percent was shipped to points outside the State of New York.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Sheet Metal Workers International Association, Local 58, A. F. of L., is a labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the Union as the exclusive collective bargaining representative of the employees involved herein until such time as it is certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

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

IV. THE APPROPRIATE UNIT

The Company raises no objection to the unit alleged by the Union to be appropriate, namely: all production and maintenance employees of the Company, including group leaders and guards, but excluding office and clerical employees, timekeepers, technical employees, the receiving and stock clerk, Jamaicans, and Barbadians² foremen, assistant foremen, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action. We find that the aforesaid unit is appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

¹ The Field Examiner reported that the Union presented 88 authorization cards and that there were approximately 169 employees in the appropriate unit.

² These persons were temporarily employed, under indefinite contracts, subject to direction by the War Manpower Commission. At the time of the hearing, the Company expected to release them before February 1, 1946. See *Matter of Syracuse Chilled Plow Co., Inc.*, 61 N L R B 717.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.³

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Lennox Furnace Company, Syracuse, New York, 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 Third Region, acting in this matter as agent for National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by the Sheet Metal Workers International Association, Local 58, A. F. of L., for the purposes of collective bargaining.

³ The Company requested that any election herein be postponed until its labor force is stabilized. The Company was expanding its plant facilities and increasing its complement of employees at the time of the hearing. It expected to complete this program by February 1, 1946, at which time it would have a working force of about 400 factory employees. Inasmuch as there were about 233 employees in the appropriate unit at the time of the hearing, and the Company was then rapidly hiring new employees, it is evident that far more than half of the anticipated full complement is now engaged. Consequently, we perceive no reason to postpone an immediate determination of representatives. See *Matter of Aluminum Company of America*, 52 N L R B 1040, and cases cited therein.