

In the Matter of A. FINKL & SONS Co. and INTERNATIONAL BROTHERHOOD OF BLACKSMITHS, DROP FORGERS AND HELPERS, A. F. L.

In the Matter of A. FINKL & SONS Co. and LOCAL B-134, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, A. F. L.

*Cases Nos. 13-R-3246 and 13-R-3315, respectively.—Decided
January 16, 1946*

Fyffe and Clarke, by Mr. David R. Clarke, of Chicago, Ill., and Messrs. William Finkl and A. R. Lane, of Chicago, Ill for the Company.

Messrs. Gerald Wolsfelt, of North Aurora, Ill., and James F. Kelly, of Chicago, Ill., for the Blacksmiths.

Mr. Emory J. Smith, of Chicago, Ill., for the I. B. E. W.

Mr. Samuel G. Hamilton, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon separate petitions duly filed by International Brotherhood of Blacksmiths, Drop Forgers and Helpers, A. F. L., herein called the Blacksmiths, and Local B-134, International Brotherhood of Electrical Workers, A. F. L., herein called the I. B. E. W., alleging that questions affecting commerce had arisen concerning the representation of employees of A. Finkl & Sons Co., Chicago, Illinois, herein called the Company, the National Labor Relations Board consolidated the cases and provided for an appropriate hearing upon due notice before Benjamin B. Salvaty, Jr., Trial Examiner. The hearing was held at Chicago, Illinois, on October 17, 1945. The Company, the Blacksmiths, and the I. B. E. W. appeared and participated.¹ All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.² The

¹ Although duly served with Notice of Hearing, International Association of Machinists, A. F. L., failed to appear.

² After the close of the hearing, the parties entered into a stipulation to correct an error in the transcript. The stipulation is hereby approved and made part of the official record in this proceeding, and the transcript made at the hearing is deemed corrected in accordance therewith.

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

A. Finkl & Sons Co., an Illinois corporation, is engaged in the manufacture of steel forgings and die blocks at its plant³ located in Chicago, Illinois. During the first 6 months of 1945, the total value of raw materials purchased by the Company was in excess of \$50,000, of which more than 50 percent was shipped to the plant from points outside the State of Illinois. During the same period, the total value of finished products manufactured by the Company was in excess of \$75,000, of which more than 60 percent was shipped from the plant to points outside the State.

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

II. THE ORGANIZATIONS INVOLVED

International Brotherhood of Blacksmiths, Drop Forgers and Helpers, and Local B-134, International Brotherhood of Electrical Workers, both affiliated with the American Federation of Labor, are labor organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Blacksmiths and to the I. B. E. W. as the exclusive bargaining representative of certain of its employees until they have been certified by the Board in appropriate units.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Blacksmiths and the I. B. E. W. each represents a substantial number of employees in the respective units sought by them and hereinafter found appropriate.⁴

³ This "plant" has four subdivisions, known as plants 1, 2, 3, and 4.

⁴ The Field Examiner reported that the Blacksmiths submitted a certified list of current dues-paying members, dated October 3, 1945, which contained the names of 116 individuals, and that 113 of them appeared on the Company's pay roll of September 9, 1945. There are approximately 249 employees in the unit sought by the Blacksmiths.

The Field Examiner further reported that the I. B. E. W. submitted 13 authorization cards; that 12 of the cards bore the names of persons appearing on the Company's pay roll of September 9, 1945; and that 4 of the cards were dated in June 1945, and 8 were undated. There are approximately 15 employees in the unit sought by the I. B. E. W.

We find that questions affecting commerce have arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) and Section 2 (6)⁵ and (7) of the Act.

IV. THE APPROPRIATE UNITS

We find, in substantial accordance with the agreement of the parties, that each of the following units is appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act:

1. All employees of the Company in its plants 1, 2, 3, and 4, located in Chicago, Illinois, including the employees in the forge shops of plants 1 and 2, the heat treating departments of plants 1, 2, 3, and 4, the boiler room of plants 1 and 2, the shipping department, and the millwright department, the raw and finished material inspection employees, the yard (material storage) employees of plants 1 and 2, and the intra-plant and inter-plant tractor drivers, but excluding office and clerical employees, outside truck drivers, employees in the machine shops of plants 1, 2, 3, and 4, the die-sinking department of plant 1, and the maintenance and repair departments of plants 1, 2, 3, and 4,⁵ the maintenance electricians and helpers, chief electrician, chief metallurgist, superintendents, 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.⁶

2. All maintenance electricians and helpers of the Company in its plants 1, 2, 3, and 4, located in Chicago, Illinois, excluding the chief electrician 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.⁷

⁵ On February 13, 1945, the Board certified the International Association of Machinists, District No. 8, A. F. L., as the exclusive bargaining representative of the employees in the machine shops of plants 1, 2, 3, and 4, the die-sinking department of plant 1, and the maintenance and repair departments of plants 1, 2, 3, and 4. See *Matter of A. Finkl and Sons Company*, Order Dismissing Petition and Certification of Representatives (unpublished).

⁶ The employees included in unit 1 are designated by the following "job code numbers": 1-1A-2-3-5-9-14-15-53-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-84-86

Unit 1, sought by the Blacksmiths, is substantially similar to that found appropriate by the Board in *Matter of A. Finkl and Sons Company*, 59 N. L. R. B. 1165, which involved the same plant as is involved herein except that the employees found below to constitute a separate appropriate unit were in that case included in the broader unit.

⁷ In this unit, sought by the I B E W, there are approximately 15 employees. They are engaged exclusively in electrical maintenance repair work, and are under the immediate supervision of the chief electrician, who the parties agree, and we find, is a supervisory employee within the meaning of our usual definition. They possess skills and perform functions characteristic of their craft, and, as we have frequently found, may constitute a separate appropriate unit in the absence of any previous history of collective bargaining. See *Matter of Western Electric Company, Inc.*, 61 N. L. R. B. 974; *Matter of Pacific States Steel Corporation*, 57 N. L. R. B. 1084; *Matter of Bohn Aluminum & Brass Corporation*, 52 N. L. R. B. 1305. No such history has been shown herein. The Blacksmiths has disclaimed any interest in these employees and does not desire to participate in any election which the Board may direct with respect to this group. Under all the circumstances, we are establishing these employees as a separate bargaining unit.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the questions concerning representation which have arisen be resolved by separate elections by secret ballot among the employees in the appropriate units who were employed during the pay-roll period immediately preceding the date of the Direction of Elections herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTIONS

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 A. Finkl & Sons Co., Chicago, Illinois, separate elections 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 Thirteenth Region, acting in this matter as agent for the National Labor Relations Board and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the units 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, and including employees in the armed forces of the United States who present themselves in person at the polls, 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 elections, to determine:

1. With respect to the employees described in unit 1, of Section IV, above, whether or not they desire to be represented by International Brotherhood of Blacksmiths, Drop Forgers and Helpers, A. F. L., for the purposes of collective bargaining.

2. With respect to the employees described in unit 2, of Section IV, above, whether or not they desire to be represented by Local B-134, International Brotherhood of Electrical Workers, A. F. L., for the purposes of collective bargaining.