

In the Matter of ALL STEEL WELDED TRUCK CORPORATION and INTERNATIONAL UNION, UNITED AUTOMOBILE WORKERS OF AMERICA, AFFILIATED WITH THE C. I. O.

Case No. R-2401.—Decided April 22, 1941

Jurisdiction: material handling equipment manufacturing industry.

Investigation and Certification of Representatives: existence of question: refusal to accord union recognition; employees whom Board held were temporarily laid off eligible to participate in the election; election necessary.

Unit Appropriate for Collective Bargaining: production and maintenance employees, and the truck driver, excluding clerical, engineering, and supervisory employees.

Mr. Edward S. Foltz, Jr., of Rockford, Ill., for the Company.

Mr. Thomas A. Keegan, of Rockford, Ill., for the Union.

Mr. Harold Weston, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On February 28, 1941, International Union, United Automobile Workers of America of the C. I. O., herein called the Union, filed a petition with the Regional Director for the Thirteenth Region (Chicago, Illinois) alleging that a question affecting commerce had arisen concerning the representation of employees of All Steel Welded Truck Corporation, Rockford, Illinois, herein called the Company, and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On March 8, 1941, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 2, as amended, ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On March 10, 1941, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and the Union. Pursuant to the notice, a hearing was held on March 15, 1941, at 31 N. L. R. B., No. 33.

Rockford, Illinois, before Charles F. McErlean, the Trial Examiner duly designated by the Chief Trial Examiner. The Company and the Union were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

All Steel Welded Truck Corporation, a Delaware corporation with its principal office and place of business at Rockford, Illinois, is engaged in the manufacture of material handling equipment. During 1940, the Company purchased raw materials valued at approximately \$35,000, about 12 per cent of which were received by the Company from sources outside the State of Illinois. During the same period, the Company's sales amounted to approximately \$100,000 in value, about 50 per cent of which were shipped by the Company to points outside the State of Illinois.

II. THE ORGANIZATION INVOLVED

International Union, United Automobile Workers of America, is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

Although the Union has by letter dated February 24, 1941, notified the Company of its claim to majority representation and requested recognition and collective bargaining conferences, the Company has neither bargained with the Union nor expressed any willingness to do so. At the hearing there was introduced in evidence a report of the Regional Director which shows that the Union represents a substantial number of employees in the unit which it alleges to be appropriate.¹

¹ The Union submitted to the Regional Director application and authorization cards signed by 34 of the 38 employees whose names appear on the Company's factory pay roll of March 3, 1941. Of the cards submitted, 13 were dated February 1941, while the remainder were undated.

We find that a question has arisen concerning the representation of employees of the Company.

IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

We find that the question concerning representation which has arisen, occurring in connection with the operations of the Company described in Section I above, has a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE APPROPRIATE UNIT

The Union and the Company agree, and we find, that production and maintenance employees and the truck driver are within, and that supervisory employees should be excluded from, the appropriate unit.

The Union would exclude, and the Company include, clerical and engineering employees. Clerical and engineering employees of the Company have not been admitted to membership in the Union, nor does it appear that such employees have designated the Union as their representative. Pursuant to the Board's usual practice and upon the entire record, we find that clerical² and engineering employees³ should be excluded from the unit.

We find that all production and maintenance employees, and the truck driver, excluding clerical, engineering and supervisory employees constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to the employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

We find that the question which has arisen concerning representation can best be resolved by the holding of an election by secret ballot and we shall so direct.

The parties are in dispute as to the determination of an eligibility date. It is the Union's position that eligibility should be determined as of February 17, 1941, the day the Company was first notified by the Union of its claim of majority representation and of its request for recognition and collective bargaining negotiations. The Com-

² *Matter of Southern California Gas Company and Utility Workers Organizing Committee, Local No 132*, 10 N. L. R. B. 1123.

³ *Matter of Jamestown Steel Partition Company and Local 309, United Electrical, Radio & Machine Workers of America*, 29 N. L. R. B. 116

pany urges that only men regularly in its employ prior to January 1, 1941, should be eligible to participate in the election. During the past 2 years the number of production and maintenance employees has varied considerably. At the time of the hearing there were 10 such employees; during the first half of 1940 there were 12; and in the second, about 20 to 26. In January and February 1941, 20 new men were added to meet, according to the Company, the demands of a special order. By March, after the order had been satisfied, these new men had been laid off. In all but one or two instances, these lay-offs were made according to seniority. Harry Clark, president of the Company, testified that the competent men laid off will be recalled as business warrants it. The Union contends that these employees laid off should be entitled to vote in the election. The Company opposes the Union's contention. We are of the opinion that these employees have been laid off temporarily and that they have a sufficiently continuing interest in the wages, hours, and working conditions of employees of the Company to entitle them to participate in the election. We shall follow our usual practice and direct that the employees of the Company eligible to vote in the election shall be those in the appropriate unit employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to such limitations and additions as are set forth in the Direction.

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

CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of All Steel Welded Truck Corporation, Rockford, Illinois, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

2. All production and maintenance employees, and the truck driver, excluding clerical, engineering, and supervisory employees constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

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 8, of National Labor Relations Board Rules and Regulations--Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining with All Steel Welded Truck Corporation, Rockford, Illinois, 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 of Election, 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, Section 9, of said Rules and Regulations, among all production and maintenance employees, and the truck driver, of All Steel Welded Truck Corporation, Rockford, Illinois, who were employed by it 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 in the active military service or training of the United States, or temporarily laid off, but excluding clerical, engineering, and supervisory employees; and employees who have since quit or been discharged for cause, to determine whether or not they desire to be represented by International Union, United Automobile Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.