

In the Matter of ALL STEEL WELDED TRUCK CORPORATION *and* INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT, AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA, LOCAL 810, AFFILIATED WITH THE C. I. O.

*Case No. R-3280.—Decided December 12, 1941*

**Jurisdiction:** material handling equipment manufacturing industry.

**Investigation and Certification of Representatives:** existence of question: Company refused to accord union recognition; election necessary

**Unit Appropriate for Collective Bargaining:** all production and maintenance employees and truck drivers excluding office and clerical, engineering, supervisory employees and shipping clerks.

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

*Mr. Charles Fane*, of Rockford, Ill., and *Mr. Lawrence Carlstrom* of Milwaukee, Wis., for Local 810.

*Mr. Reynolds C. Seitz*, of counsel to the Board.

## DECISION

AND

## DIRECTION OF ELECTION

### STATEMENT OF THE CASE

On October 27, 1941, the International Union, United Automobile, Aircraft, and Agricultural Implement Workers of America, Local 810, affiliated with the C. I. O., herein called Local 810, filed with the Regional Director for the Thirteenth Region (Chicago, Illinois) a petition 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 November 3, 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.

37 N. L. R. B., No. 84.

On November 4, 1941, the Regional Director issued a notice of hearing, copies of which were duly served on the Company and Local 810. Pursuant to notice a hearing was held on November 12, 1941, at Rockford, Illinois, before Lester Asher, the Trial Examiner duly designated by the Chief Trial Examiner. The Company and Local 810 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.

On November 17, 1941, the parties entered into a stipulation correcting the transcript of the hearing. The stipulation is hereby made a part of the record of the proceeding.

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

#### FINDINGS OF FACT

##### I. THE BUSINESS OF THE COMPANY

All Steel Welded Truck Corporation is organized under the laws of Delaware with its principal office in Rockford, Illinois. The Company is engaged in the manufacturing of material-handling equipment, and during the year 1940 it purchased raw materials valued at approximately \$35,000, about 12 per cent of which were received from sources outside the State, and during the same year it sold finished goods amounting to approximately \$100,000 in value, about 50 per cent of which were shipped to points outside the State.

##### II. THE ORGANIZATION INVOLVED

International Union, United Automobile, Aircraft, and Agricultural Implement Workers of America, Local 810, affiliated with the C. I. O., is a labor organization admitting to membership employees of the Company.

##### III. THE QUESTION CONCERNING REPRESENTATION

On April 22, 1941, the Board issued a Decision and Direction of Election,<sup>1</sup> and on June 6, 1941, a Supplemental Decision and Order<sup>2</sup> indicating that Local 810 had failed to attain a majority

<sup>1</sup> *Matter of All Steel Welded Truck Corporation and International Union, United Automobile Workers of America, Affiliated with the C. I. O.*, 31 N. L. R. B., No. 33.

<sup>2</sup> *Matter of All Steel Welded Truck Corporation and International Union, United Automobile Workers of America, Affiliated with the C. I. O.*, 32 N. L. R. B., No. 74.

of the votes to establish itself as a bargaining representative of the employees it now seeks to represent.

Soon after the April election an Association of employees was formed. It had no charter or constitution. In June 1941, the Association submitted to the Company a working agreement. The Company consented to bargain with the Association and signed an exclusive recognition contract on May 27, 1941. The contract was to remain in force for 1 year with a provision for extension from year to year thereafter, subject, however, to the right of either party to terminate the agreement at the end of any yearly period by written notice given to the other party 60 days prior to the end of any such year.

On September 18, 1941, a majority of the employees voted to go out on strike, and on September 20 most of them joined Local 810. At a meeting on September 23, 1941, 28 employees, a majority in the bargaining unit hereinafter found appropriate, and 100 per cent of the employees present, voted to disband the Association. On or about October 14, 1941, Local 810 demanded recognition for bargaining purposes, which was refused by the Company. Local 810 thereupon filed its petition in this proceeding and on November 3, 1941, the employees voted to go back to work pending the Board's decision herein.

Since the evidence indicates that the Association is no longer a functioning labor organization, we find that the contract with the Association is not a bar to a determination of representatives.

A statement of the Regional Director introduced in evidence at the hearing, and a check of membership cards made by the Trial Examiner at the hearing shows that Local 810 represents a substantial number of employees in the unit hereinafter found to be appropriate.<sup>3</sup>

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

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<sup>3</sup> The Regional Director reports that there are approximately 35 employees in the unit alleged to be appropriate. Local 810 submitted 37 membership cards bearing apparently genuine original signatures. The Trial Examiner reported that his examination disclosed that 29 of the cards bore names of employees on the Company's pay roll of November 12, 1941.

## V. THE APPROPRIATE UNIT

Local 810 petitions that the unit be composed of all production and maintenance employees and truck drivers excluding office and clerical, engineering, supervisory employees, and shipping clerks. The Company agrees that the unit requested by Local 810 is appropriate, except that it would include therein the one shipping clerk presently employed. In addition to his shipping duties, the shipping clerk is a part-time clerical worker in the superintendent's office. Since all other clerical employees are to be excluded from the unit, we shall also exclude the shipping clerk.

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

## VI. THE DETERMINATION OF REPRESENTATIVES

We find that the question concerning representation which has arisen can best be resolved by an election by secret ballot. We shall direct that the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, including employees who have not been returned to work by the Company since the termination of the strike,<sup>4</sup> subject to the limitations and additions set forth in the Direction, shall be eligible to vote.

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

## CONCLUSIONS OF LAW

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

2. All production and maintenance employees and truck drivers excluding office and clerical, engineering, supervisory employees and shipping clerks constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

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<sup>4</sup> To date, 15 men have been taken back to work, but the employer testifies that he is willing to take back all the 33 who signified a desire to return as rapidly as production advance permits

## 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, 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 truck drivers who were employed during the pay-roll period immediately preceding the date of this Direction of Election, including employees who did not work during such 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, or not as yet reemployed since the strike, but excluding office and clerical, engineering, supervisory employees and shipping clerks, and those who have since quit or been discharged for cause, to determine whether or not they desire to be represented for the purposes of collective bargaining by the International Union, United Automobile, Aircraft, and Agricultural Implement Workers of America, Local 810, affiliated with the C. I. O.