

In the Matter of THE ATWOOD MACHINE COMPANY and INTERNATIONAL ASSOCIATION OF MACHINISTS (A. F. L.)

Case No. R-3439.—Decided February 16, 1924

Jurisdiction: textile machinery industry.

Investigation and Certification of Representatives: existence of question: refusal to accord union recognition; election necessary.

Unit Appropriate for Collective Bargaining: group of departments in plant, omitting certain departments not organized by petitioning union as ineligible for membership in said union, and excluding from the included departments, plant protection men, timekeepers, foremen, and clerks, held to constitute appropriate bargaining unit

Mr. Ernest L. Anderson, of Worcester, Mass., for the Company.

Mr. J. Henry De Cantillon, of Meriden, Conn., for the Union.

Mr. A. Sumner Lawrence, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On November 15, 1941, and December 10, 1941, respectively, International Association of Machinists, affiliated with the A. F. of L., herein called the Union, filed with the Regional Director for the First Region (Boston, Massachusetts) a petition and an amended petition alleging that a question affecting commerce had arisen concerning the representation of employees of The Atwood Machine Company, Stonington, Connecticut, 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 December 24, 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 December 29, 1941, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and

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the Union. Pursuant to notice, a hearing was held on January 6, 1942, at Stonington, Connecticut, before Albert J. Hoban, the Trial Examiner, duly designated by the Chief Trial Examiner. The Company and the Union appeared by their representatives 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. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed. The Company's motion to dismiss the petition on the ground that the Union had failed to show that it represented a majority of the employees in an appropriate unit, is hereby denied.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Atwood Machine Company is a Connecticut corporation, with its principal place of business and office at Stonington, Connecticut. The Company is engaged at its plant in Stonington, Connecticut, in the manufacture, sale, and distribution of textile machinery, gun mounts, machine-tool parts, and submarine parts. The Company uses annually in its business at the Stonington plant raw materials valued at more than \$125,000, of which raw materials over 50 percent are shipped to said plant from and through States of the United States other than the State of Connecticut. The Company manufactures annually at the Stonington plant finished products valued at more than \$500,000, of which finished products over 50 percent are sold and shipped from the Stonington plant to, through, and into States of the United States other than the State of Connecticut. The Company employs approximately 462 employees.

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

II. THE ORGANIZATION INVOLVED

International Association of Machinists is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

Shortly before the filing of the petition herein, the Union requested recognition from the Company as the exclusive representative of its employees. The Company refused to grant recognition until the Union had been certified as such representative by the Board. A

statement of the Regional Director, introduced into evidence, shows that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

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

In its original petition the Union claimed that the appropriate unit should consist of all employees except the plant-protection men, foundry workers, clerical help, department foremen, and higher executives. Thereafter, the Union filed an amended petition for the purpose of more clearly designating the employees claimed in the original petition. The amended petition described the unit as consisting of all employees other than foremen and clerks in the following departments only: maintenance, tool general, erector, bobbin, assembly, spindle, spindle assembly, and machine shop.² At the hearing, the Union further clarified its position by requesting that timekeepers, carpenters, and pattern makers be excluded. The Company opposes the proposed exclusion of carpenters and pattern makers and further contends that "outside of moulders, all working in the foundry"³ should be included in the unit.

Most of the machine work is performed in the machine shop, where about 150 employees, consisting of lathe operators, drill hands, machinists, cutters and grinders, and others, are engaged. In the bobbin department, a term which is no longer descriptive of the type of work there performed, a variety of small machine parts are manufactured. Spinning and twister spindles for textile machinery are manufactured

¹ The Regional Director reported that the Union had presented 104 authorization cards of which 6 were undated, one dated July 1941, 16 dated August 1941, 23 dated October 1941, and 58 dated November 1941. The Regional Director further reported that of the 104 signatures 94 are the names of persons on the Company's pay roll of November 14, 1941, within the appropriate unit claimed by the Union, and that the pay roll contains a total of approximately 285 names in the alleged appropriate unit.

² The Company has four other so-called departments which the Union would exclude. packing and shipping, a carpenter shop, a pattern shop, and a foundry or casting room.

³ We interpret the above-quoted statement as meaning that all foundry- or casting-room workers, except moulders, should be included, rather than that all employees of the Company, other than moulders, should constitute the unit.

in the spindle department. In the assembly and spindle-assembly departments, the machines and spindles are assembled prior to shipment. The bobbin, spindle, assembly, and spindle-assembly departments employ about 90 employees of various classifications, such as machine operators, bench workers, assemblers, and allied workers. The Company employs seven toolmakers, a machinist, and an apprentice in the tool department where tools used for the manufacture of the Company's products are made. In addition, two toolmakers in the so-called general department make experimental models.⁴ There are eight erectors, who set up machinery for customers and, when not so engaged, work in the machine shop or in the experimental room. We find that, in general, employees in the foregoing departments are within the appropriate unit.

The carpenters and pattern makers, of whom there are six⁵ and seven,⁶ respectively, are not eligible for membership in the Union and fall within the jurisdiction of other affiliates of the American Federation of Labor. For these reasons, the Union seeks to exclude them. The Company, however, would include them and contends that these two groups are functionally related to the other employees sought by the Union. Two of the carpenters are in the maintenance department and perform general building construction and maintenance work. The remaining carpenters and the two woodworkers work in the carpenter shop proper; they "take care of" flasks for the foundry and perform other carpentry work. The pattern makers apparently build forms of metal and wood which are used in the foundry or casting room. Neither the carpenters nor the pattern makers engage in regular production work; their duties appear to be those customarily performed by their respective crafts and, except for the two maintenance carpenters, are closely related to the functions of the workers in the foundry. In view of these facts, and since the Union does not admit them to membership, we shall exclude the carpenters and pattern makers from the unit.⁷

There are about 80 employees in the foundry, comprising moulders and allied workers. Although the record is not entirely clear, it appears that the foundry workers perform work differing from that of production employees in the plant. The Union does not admit foundry workers to membership, as they are within the jurisdiction of another

⁴ The other employees in the general department are a storekeeper, two stock boys, a stock clerk, and a stock chaser; the only description of their duties was the statement by the assistant general manager of the Company that they constitute the receiving department. We shall not at this time specifically include or exclude these employees, since their duties are insufficiently described in the record. If the description of the unit hereinafter found does not resolve the issue, we shall decide that matter upon appropriate challenge made at the election, if the occasion arises.

⁵ We include in this group the two woodworkers in the carpenter shop

⁶ Including the apprentice

⁷ *Matter of Kalamazoo Paper Company and International Brotherhood of Firemen and Oilers (A. F. of L.)*, 23 N. L. R. B. 76.

A. F. of L. affiliate. We shall, therefore, exclude all the foundry workers.

The four timekeepers keep job records in the spindle department and machine shop; so far as appears, they do not engage in any production work. We shall exclude the timekeepers, since they are primarily clerical employees.⁸

There are 14 employees in the packing and shipping department. The Union urges that they be excluded on the ground that they have not been organized and perform work of a nature similar to that of clerks. It is apparent that their work is not closely related to that of the production employees and for this reason, and since organization has not extended to them, we shall exclude them.

The Union, in its original petition, sought the exclusion of plant-protection men. There are two patrolmen, five watchmen, and one guard. Although these employees were not specifically excluded in the amended petition, at the hearing the Union's representative stated that it did not seek their inclusion. In accordance with our usual practice, we shall exclude the plant-protection employees.⁹

We find that all employees of the Company, excluding foremen and higher supervisory employees, clerical employees, timekeepers, carpenters, pattern makers, plant-protection employees, and all employees in the foundry and in the packing and shipping department, constitute a unit appropriate for the purposes of collective bargaining. We further find that said unit will insure to employees of the Company 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 which has arisen concerning the representation of employees of the Company can best be resolved by an election by secret ballot. We shall direct that those eligible to vote in the election shall be those employees within the appropriate unit who were employed by the Company during the pay-roll period immediately preceding the date of the Direction of Election, subject to the limitations and additions set forth in the Direction.

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

CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees of The Atwood Machine Company within the

⁸ *Matter of Federal Screw Works and Local 174, United Automobile Workers of America*, 21 N. L. R. B. 100

⁹ *Matter of General Motors Corporation, Chevrolet Motor Division, Norwood Plant and United Automobile Workers of America, affiliated with C. I. O.*, 33 N. L. R. B., No. 7.

meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. All employees of the Company, excluding foremen and higher supervisory employees, clerical employees, timekeepers, carpenters, pattern makers, plant-protection employees, and all employees in the foundry and in the packing and shipping department, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations 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 ordered by the Board to ascertain representatives for the purposes of collective bargaining with The Atwood Machine Company, Stonington, Connecticut, 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 First 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 employees of the Company who were employed during the pay-roll period immediately preceding the date of this Direction of Election, including those 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, but excluding foremen and higher supervisory employees, clerical employees, timekeepers, carpenters, pattern makers, plant-protection employees, and all employees in the foundry and in the packing and shipping department, 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 International Association of Machinists (A. F. L.).