

In the Matter of THE FIRESTONE TIRE AND RUBBER COMPANY (FIRESTONE INDUSTRIAL PRODUCTS DIVISION, ZANESVILLE, OHIO)¹ and UNITED RUBBER WORKERS OF AMERICA (CIO)

Case No. 8-R-1465.—Decided May 25, 1944

Mr. W. R. Murphy, of Akron, Ohio, and *Mr. H. W. Orth*, of Zanesville, Ohio, for the Company.

Mr. Claude Wisdom and *Mr. H. R. Lloyd*, of Akron, Ohio, for the CIO.

Mr. T. C. Dethloff, of Akron, Ohio, for the AFL.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

Upon a petition duly filed by United Rubber Workers of America (CIO), herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of The Firestone Tire and Rubber Company (Firestone Industrial Products Division), Zanesville, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William O. Murdock, Trial Examiner. Said hearing was held at Cleveland, Ohio, on April 22, 1944. The Company, the CIO, and International Union of Operating Engineers, Local Union 567, (AFL), herein called the AFL, 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.

¹ The Company's name is shown as corrected by motion at the hearing
56 N. L. R. B., No. 163.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Firestone Tire and Rubber Company, an Ohio corporation, has its main offices in Akron, Ohio, and operates, among others, a plant at Zanesville, Ohio, which is known as The Firestone Tire and Rubber Company, Industrial Products Division of Zanesville, Ohio, and is the only plant involved in this proceeding. Over 50 percent of the raw materials used by the Company at its Zanesville plant, totally valued at more than \$100,000 annually, comes from outside the State of Ohio. The finished products manufactured by the Company, which are fuel tanks for the armed forces of the United States, exceed in value \$100,000 annually. Practically all the finished products are shipped to points outside the State of Ohio.

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

II. THE ORGANIZATIONS INVOLVED

United Rubber Workers of America, affiliated with the Congress of Industrial Organizations, and International Union of Operating Engineers, Local Union 567, 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 CIO as the exclusive bargaining representative of certain of the Company's employees until the CIO has been certified by the Board in an appropriate unit. The Company asserted at the hearing that the CIO's petition herein is untimely because the plant, which began operating in the latter part of 1943, is still expanding in its personnel, and that the peak employment is expected to be reached by August 1944, when the Company will have between 1,200 and 1,400 employees at this plant. The Company requests that no election be held until it has its full complement of employees. At the time of the hearing, the Company had between 700 and 800 employees. During December 1943 the Company hired 158 new employees; in January and February 1944 it obtained only half that number. In view of the present labor shortage, it would be difficult to make any sound predictions as to the availability of manpower and the possibility of employing the additional 700 or 800 persons whom the Company would like to hire.

Since the Company already has in its employ at least 50 percent of the maximum number of persons whom it intends to employ, we are of the opinion that an election properly may be held at this time to determine the employees' representation desires.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the CIO represents a substantial number of employees in the unit hereinafter found appropriate.²

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 DETERMINATION OF REPRESENTATIVES

The CIO and the Company agree that an appropriate unit should consist of all employees of the Company, excluding executive, administrative, and office employees, time-study employees, nurses, chemists, plant-protection employees, the plant manager, the plant superintendent, shift superintendents, assistant shift superintendents, department foremen, assistant foremen, and supervisors. We see no reason for departing from the agreed inclusions and exclusions.

The AFL seeks a separate unit composed of the powerhouse employees, whom the CIO would include in the main production and maintenance unit. The Company assumes no position as to the powerhouse employees. The powerhouse employees are all licensed firemen, housed in a separate building from the other employees.

The powerhouse employees may properly constitute a separate unit or a part of the plant-wide unit embracing all employees of the Company. In view of this fact, we shall make no determination of the appropriate unit or units at this time, but shall direct that the question concerning representation be resolved, in part, by separate elections among (1) the powerhouse employees, and (2) the remaining employees, with the exclusions indicated. If both groups select the CIO, they will constitute a single unit; if the powerhouse employees select the AFL, they will constitute a separate unit.

We shall direct that the question concerning representation which has arisen among all the employees of the Company be resolved by elections by secret ballot among the employees in the groups described in the Direction of Elections who were employed during the pay-roll period immediately preceding the date of the Direction of Elections

²The Field Examiner reported that the CIO submitted 326 authorization cards and that there were in April 1944, about 555 employees in the alleged appropriate unit, and that the CIO represents 46.9 percent of the employees in the unit. The AFL stated at the hearing that all of the powerhouse employees, of whom there are 4, whom it seeks to represent in a separate unit, are its members. The CIO submitted 3 application cards bearing the names of powerhouse employees.

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, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with The Firestone Tire and Rubber Company, Firestone Industrial Products Division, Zanesville, Ohio, 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 Eighth 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 groups described below who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during the 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 (1) whether or not all employees of the Company, excluding executive, administrative, and office employees, time-study employees, nurses, chemists, plant-protection employees, powerhouse employees, the plant manager, the plant superintendent, shift superintendents, assistant shift superintendents, department 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, desire to be represented by United Rubber Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining; and (2) whether the powerhouse employees, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, desire to be represented by United Rubber Workers of America, affiliated with the Congress of Industrial Organizations, or by International Union of Operating Engineers, Local Union 567, affiliated with the American Federation of Labor, for the purposes of collective bargaining or by neither.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Elections.