

In the Matter of NATIONAL BATTERY CORPORATION *and* UNITED OFFICE
AND PROFESSIONAL WORKERS OF AMERICA, C. I. O.

Case No. 3-R-877.—Decided October 28, 1944

Mr. Edward D. Flaherty, of Buffalo, N. Y., for the Company.

Mr. Robert Barnholz, of Buffalo, N. Y., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Office and Professional Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of National Battery Corporation, Depew, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Peter J. Crotty, Trial Examiner. Said hearing was held at Buffalo, New York, on October 11, 1944. The Company and the Union appeared, participated, and 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 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

National Battery Corporation is a Delaware corporation. We are here concerned with its plant at Depew, New York, where it is engaged in the manufacture of storage batteries. During the 6-month period ending October 1, 1944, the Company purchased raw materials for use at its Depew plant valued in excess of \$100,000, over 50 percent of which was shipped to it from points outside the State of New York.

During the same period the Company manufactured products at its Depew plant valued in excess of \$100,000, over 60 percent of which was shipped to points outside the State of New York.

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

II. THE ORGANIZATION INVOLVED

United Office and Professional 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

On September 1, 1944, the Union requested the Company to recognize it as the exclusive collective bargaining representative of certain employees at the Depew plant. The Company refused this request until such time as the Union is certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

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

We find, in accordance with a stipulation of the parties, that all employees of the Company listed in Appendix A, but excluding the employees listed in Appendix B and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

¹ The Field Examiner reported that the Union presented 33 authorization cards. There are approximately 79 employees in the appropriate unit.

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 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 National Battery Corporation, Depew, New York, 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 Third 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 unit 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 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 whether or not they desire to be represented by United Office and Professional Workers of America, C. I. O., for the purposes of collective bargaining.

APPENDIX A

Draftsmen	Equipment engineer
Blue print clerk	Time-study clerks
Chemist	Cashier
Laboratory assistants	Switchboard operators
Stenographers	Mail girl
Sales—Advertising desk clerk	Timekeepers
Shop clerk	Safety engineer
Production clerks	Office pay-roll clerk
Billing typists	Billing report clerk
Purchasing typist	Pay-roll clerks
Purchasing stenographers	Experimental engineer
Purchasing clerk	Employment clerks
Cost clerks	Accountant
Calculator operator	Nurses
Central stenographers	Traffic clerk
Expediter	

APPENDIX B

Chief draftsman
Laboratory supervisor
Chief inspector
Assistant to vice president and sales manager
Confidential secretary to vice president and sales manager
Production department supervisor
Assistant production department supervisor
Billing supervisor and Government order desk
Purchasing agent
Office manager
Confidential secretary to plant manager
Confidential secretary to vice president and general manager
Confidential secretary to assistant treasurer and office manager
Chief time-study engineer
Chief timekeeper
Personnel manager
Confidential secretary to personnel manager
Assistant to plant manager
Vice presidents
Assistant treasurer
Chief of police
Plant manager
Superintendent
Employment manager