

In the Matter of ALL-STEEL-EQUIP COMPANY, INC. and INTERNATIONAL TEAMSTERS, CHAUFFEURS, SALES DRIVERS & HELPERS LOCAL 423, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, A. F. OF L.

Case No. 13-R-2811.—Decided March 17, 1945

Fyffe & Clarke, by Mr. Albert J. Smith, of Chicago, Ill., for the Company.

Mr. Howard Metzger, of Aurora, Ill., 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 International Teamsters, Chauffeurs, Sales Drivers & Helpers Local 423, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of All-Steel-Equip Company, Inc., Aurora, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert T. Drake, Trial Examiner. Said hearing was held at Chicago, Illinois, on February 12, 1945. The Company and the Union appeared at and participated in the hearing.¹ 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 opportunity to file briefs with the Board.

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

¹ Although International Association of Machinists, A. F. L., herein called the I. A. M., and International Brotherhood of Blacksmiths, Drop Forgers and Helpers, A. F. of L., herein called the Blacksmiths, were served with Notice of Hearing, they did not move to intervene in this proceeding.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY.

All-Steel-Equip Company, Inc., is an Illinois corporation operating two plants at Aurora, Illinois, where it is engaged in the manufacture of sheet metal products. During 1944 the Company purchased materials valued in excess of \$100,000, over 50 percent of which was shipped to it from points outside the State of Illinois. During the same period the Company sold products valued in excess of \$150,000, over 50 percent of which was shipped to points outside the State of Illinois.

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

II. THE ORGANIZATION INVOLVED

International Teamsters, Chauffeurs, Sales Drivers & Helpers Local 423, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On December 7, 1944, the Union requested the Company to recognize it as exclusive collective bargaining representative of the outside truck drivers. The Company refused this request.

On December 13, 1943, the Company entered into a joint contract with the I. A. M. and the Blacksmiths covering all employees of the Company as well as the employees claimed herein by the Union. The outside truck drivers were covered under the portion of the agreement administered by the Blacksmiths. Just prior to December 13, 1944, the I. A. M. and the Blacksmiths notified the Company of their desire to negotiate separate contracts. No new contract had been signed at the date of the hearing. The I. A. M. and the Blacksmiths have ceded jurisdiction over the employees here concerned, but the Company challenges the appropriateness of including them in a separate unit as requested in the Union's petition.

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.²

² The Field Examiner reported that the Union submitted an affidavit of union membership records showing that two employees are dues paying members of the Union. There are two employees in the appropriate unit.

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 Union asks for a unit of all outside truck drivers employed by the Company, excluding supervisors, shipping room foreman, loaders, and production and maintenance employees. The Company is opposed to the inclusion of these employees in a unit separate from that of its other employees.

The Company employs two truck drivers, one of whom drives a light pick-up automobile handling mail between the post office and the Company's two plants and also a heavy duty truck transporting raw materials between the plant and finished materials to and from the railroad yards. The other truck driver hauls processed materials between the two plants.

The record thus clearly shows that the truck drivers are not directly concerned with the production of goods and that the unit requested by the Union is well-defined and readily distinguishable from the production and maintenance group. We must also take into consideration that the Blacksmiths, which heretofore represented the employees involved, has relinquished jurisdiction over them. Insofar as the record is concerned, it must be assumed that the Blacksmiths is neither willing nor constitutionally able to bargain for these employees in the future, so that dismissal of the present petition would deprive them of an opportunity to designate a new bargaining representative.

We find that all outside truck drivers of the Company, excluding loaders, production and maintenance employees, the shipping room foreman, 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, 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.

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 All-Steel-Equip Company, Inc., Aurora, Illinois, an election by secret ballot shall be conducted as early as possible, but not later than sixty (60) 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, 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 International Teamsters, Chauffeurs, Sales Drivers & Helpers Local 423, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, A. F. of L., for the purposes of collective bargaining.