

In the Matter of CALORIC GAS STOVE WORKS and TOPTON FOUNDRY COMPANY, INC. and INTERNATIONAL MOLDERS' UNION OF NORTH AMERICA, LOCAL 114

Case No. C-198.—Decided July 31, 1937

Stove Manufacturing Industry—Settlement: agreement to comply with Act—Order: entered on stipulation.

Mr. Samuel G. Zack and Mr. Norman F. Edmunds for the Board.

Mr. Isaac Ash, of Philadelphia, Pa., and *Mr. Albert M. Roth*, for the respondents.

Mr. William Potter Davis, Jr., of Philadelphia, Pa., for Caloric Gas Stove Works Employees Beneficial Association and Tipton Foundry Employees Union.

Mr. Howard Lichtenstein, of counsel to the Board.

DECISION

STATEMENT OF THE CASE

Upon charges and amended charges duly filed by International Molders' Union of North America, Local 114, herein called the Union, the National Labor Relations Board, herein called the Board, by Stanley W. Root, Regional Director for the Fourth Region (Philadelphia, Pennsylvania), issued and duly served its complaint dated June 18, 1937, against Caloric Gas Stove Works, Philadelphia, Pennsylvania,¹ and Tipton Foundry Company, Inc., Tipton, Pennsylvania, the respondents herein, alleging that the respondents, in the operation of their plant at Tipton, Pennsylvania, had engaged in and were engaging in unfair labor practices affecting commerce within the meaning of Section 8, subdivisions (1), (2), (3), and (5) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

In respect to the unfair labor practices, the complaint in substance alleged that the respondents, in 1936, sponsored the formation of the Caloric Gas Stove Works Employees Beneficial Association, and in February 1937, the Tipton Foundry Employees Union, both labor organizations within the meaning of Section 2, subdivision (5) of the Act; that at all times thereafter, the respondents have dominated

¹ The record shows that the respondents, Nathan Klein, Gustav Klein, Harry W. Klein, Meyer Klein, and Julius Klein are co-partners doing business under the firm name or style of Caloric Gas Stove Works; they maintain their general offices in Philadelphia, Pennsylvania, and own all the stock of the Tipton Foundry Company, Inc.

and interfered with the administration of these organizations and have contributed financial and other support thereto; that on January 15, 1937, the respondents discharged, and have at all times since that date refused to reinstate 216 of their employees for the reason that they joined and assisted the Union, and engaged in concerted activities with other employees in the plant of the respondents at Tipton, for the purposes of collective bargaining and other mutual aid and protection; that the respondents have at all times refused to bargain collectively with the Union as the representative of their production employees in their plant at Tipton, although the Union had been certified on December 11, 1936, as the exclusive representative of such employees by Stanley W. Root, Regional Director for the Fourth Region of the Board. On June 26, 1937, the respondents filed their answer denying the allegations of unfair labor practices but admitting that they are engaged in interstate commerce and are within the jurisdiction of the Board.

Pursuant to notice, Henry J. Kent, duly designated by the Board as Trial Examiner, conducted a hearing at Allentown, Pennsylvania, commencing on July 8, 1937, in which all of the parties appeared by counsel, including the Caloric Gas Stove Works Employees Beneficial Association and the Tipton Foundry Employees Union, whose motion to intervene was granted by the Trial Examiner. On July 21, 1937, during the hearing, the following stipulations were agreed upon by the Board, the Caloric Gas Stove Works and Tipton Foundry Company, Inc., and were offered in evidence and made a part of the record without objection:

It is hereby stipulated by and between counsel for the respective parties:

I. The National Labor Relations Board may make findings that the respondents have engaged in unfair labor practices as alleged in the complaint issued by the Board on June 18, 1937, in the above entitled matter.

II. It is further stipulated that the Board may enter a cease and desist order in this case to the following effect;

The respondent shall:

1. Cease and desist from in any manner interfering with, restraining or coercing its employees in the exercise of their right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, as guaranteed under Section 7 of this Act;

2. Cease and desist from threatening its employees with discharge if they engage in union activities and from carrying on

propaganda by the publication of newspaper advertisements, or otherwise against union activities in general and membership in the International Molders' Union of North America, affiliated with the American Federation of Labor in particular; from in any manner inducing and causing citizens, civic bodies or public officials and its supervisory and other employees to interfere with, restrain or coerce its employees in the exercise of the rights guaranteed in Section 7 of the Act; and from discouraging by any means membership in the International Molders' Union of North America or any other labor organization of its employees' choosing.

3. Cease and desist from in any manner dominating or interfering with the administration of the Caloric Gas Stove Works Employees Beneficial Association or the Topton Foundry Employees Union or any other labor organization of its employees; from contributing financial aid or support to either of the said organizations; from recognizing or dealing in any manner with the Caloric Gas Stove Works Employees Beneficial Association or the Topton Foundry Employees Union or any group or committee purporting to represent the said organizations; or from forming or maintaining any groups or designating any individuals to act as the representatives of the employees for the purpose of collective bargaining respecting any of the terms or conditions of employment;

4. Cease and desist from refusing to bargain collectively with the International Molders' Union as the exclusive representative of all their employees except those engaged in supervisory or clerical capacities in respect to rates of pay, wages, hours of employment, and other conditions of employment.

5. Take the following affirmative action to effectuate the policies and purposes of the National Labor Relations Act;

(a) That the respondents will withdraw all recognition from the Caloric Gas Stove Works Employees Beneficial Association and the Topton Foundry Employees Union as the representatives of their employees or any of them for the purpose of dealing with the respondents concerning grievances, labor disputes, wages, rates of pay, hours of employment or other conditions of employment;

(b) That the respondents will post notices in conspicuous places about their plants or mills at Topton, Pa., stating that the Caloric Gas Stove Works Employees Beneficial Association and the Topton Foundry Employees Union are disestablished as the representatives of their employees or any of them for the purpose of collective bargaining and that the respondents will not extend any recognition to such organizations; the said no-

tices to remain posted for at least thirty (30) consecutive days from the date of posting;

(c) That they will take every possible legal means to secure the surrender of the Charter of the Topton Foundry Employees Union and do everything in their power to secure its dissolution;

(d) That they will personally inform in writing the officers of the Topton Foundry Employees Union and the Caloric Gas Stove Works Employees Beneficial Association that the National Labor Relations Board has made a finding that these organizations have been formed and administered in violation of the National Labor Relations Act and that they will not in any manner deal with or recognize such organizations;

(e) That they will inform all of their officials and agents, including superintendents, foremen and other supervisory employees that they shall not in any manner approach employees concerning, or discuss with the employees, the question of their labor affiliation or threaten employees in any manner because of their membership in any labor organization in general, or the International Molders' Union in particular;

(f) That the National Labor Relations Board has made a finding that they will upon request, bargain collectively with the International Molders' Union of North America as the exclusive representative of all their employees at Topton except those engaged in supervisory or clerical capacities in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(g) That they shall offer to their 216 employees whose names appear on a list entitled "Appendix 'A'" attached to the complaint above referred to, immediate, full and unconditional reinstatement to their former positions without prejudice to any rights and privileges previously enjoyed by them; it being agreed that the said 216 employees shall be offered reemployment on or before August 2, 1937.

III. It is further stipulated that upon compliance with the order of the Board as aforesaid within 30 days after date of stipulation and upon notification to the Board of compliance with the terms of the order, the International Molders' Union will withdraw the charge and amended charge which it filed against the respondents herein on February 19, 1937, and June 11, 1937, and will request the Board to dismiss the complaint herein.

ORDER

On the basis of the above stipulation, and pursuant to Section 10, subdivision (c) of the National Labor Relations Act, the National

Labor Relations Board hereby orders that the respondents, Caloric Gas Stove Works and Topton Foundry Company, Inc., a corporation, their officers, agents, successors and assigns shall:

1. Cease and desist:

(a) From in any manner interfering with, restraining, or coercing their employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, as guaranteed under Section 7 of the Act;

(b) From threatening their employees with discharge if they engage in union activities and from carrying on propaganda by the publication of newspaper advertisements, or otherwise against union activities in general and membership in the International Molders' Union of North America, affiliated with the American Federation of Labor in particular; from in any manner inducing and causing citizens, civic bodies, or public officials, and their supervisory and other employees to interfere with, restrain, or coerce their employees in the exercise of the rights guaranteed in Section 7 of the Act; and from discouraging by any means membership in the International Molders' Union of North America or any other labor organization of their employees' choosing;

(c) From in any manner dominating or interfering with the administration of the Caloric Gas Stove Works Employees Beneficial Association or the Topton Foundry Employees Union or any other labor organization of their employees; from contributing financial aid or support to either of the said organizations; from recognizing or dealing in any manner with the Caloric Gas Stove Works Employees Beneficial Association or the Topton Foundry Employees Union or any group or committee purporting to represent the said organizations; or from forming or maintaining any groups or designating any individuals to act as the representatives of the employees for the purpose of collective bargaining respecting any of the terms or conditions of employment;

(d) From refusing to bargain collectively with the International Molders' Union as the exclusive representative of all their employees except those engaged in supervisory or clerical capacities in respect to rates of pay, wages, hours of employment, and other conditions of employment.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Withdraw all recognition from the Caloric Gas Stove Works Employees Beneficial Association and the Topton Foundry Employees Union as the representative of their employees or any of them for the purpose of dealing with the respondents concerning

grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment;

(b) Post notices in conspicuous places about their plants or mills at Topton, Pennsylvania, stating that the Caloric Gas Stove Works Employees Beneficial Association and the Topton Foundry Employees Union are disestablished as the representatives of their employees or any of them for the purpose of collective bargaining and that the respondents will not extend any recognition to such organizations; the said notices to remain posted for at least thirty (30) consecutive days from the date of posting;

(c) Take every possible legal means to secure the surrender of the Charter of the Topton Foundry Employees Union and do everything in their power to secure its dissolution;

(d) Personally inform in writing the officers of the Topton Foundry Employees Union and the Caloric Gas Stove Works Employees Beneficial Association that the National Labor Relations Board has made a finding that these organizations have been formed and administered in violation of the National Labor Relations Act and that they will not in any manner deal with or recognize such organizations;

(e) Inform all of their officials and agents, including superintendents, foremen, and other supervisory employees that they shall not in any manner approach employees concerning, or discuss with the employees, the question of their labor affiliation or threaten employees in any manner because of their membership in any labor organization in general, or the International Molders' Union in particular;

(f) Upon request, bargain collectively with the International Molders' Union of North America as the exclusive representative of all their employees at Topton except those engaged in supervisory or clerical capacities in respect to rates of pay, wages, hours of employment, and other conditions of employment;

(g) Offer to their 216 employees whose names appear on a list entitled "Appendix 'A'", attached hereto and made a part of this order, immediate, full, and unconditional reinstatement to their former positions without prejudice to any rights and privileges previously enjoyed by them; it being agreed that the said 216 employees shall be offered reemployment on or before August 2, 1937.

CHAIRMAN MADDEN took no part in the consideration of the above Decision.

APPENDIX "A"

Allender, Robert
Behm, Irvin
Boyer, Tillman
Bauer, Woodrow

Bauer, Clarence
Bauer, David
Bechtel, William
Bidlow, Arthur

APPENDIX "A"—Continued

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| Bauman, Ernest | Moser, Charles |
| Christman, Milton | Muth, Joseph |
| Cunnis, Albert | Miller, Sylvester |
| Delong, Howard | Miller, William R. |
| Delong, Charles | Oswald, Claude |
| Delong, Walter | O'Brein, Paul |
| Doll, Ernest | Roth, Paul |
| Gaby, Daniel | Reinert, Harvey S. |
| Geist, Norman | Reichert, Ernest |
| Holland, George | Miller, Arthur |
| Hilbert, Charles | Tworokoski, John |
| Boyer, Ralph | Sheetz, Daniel |
| Geist, Clarence D. | Shoemaker, Robert |
| Hilbert, Fred G. | Smith, John M. |
| Heffner, Percy | Westwood, Henry |
| Helbert, Ernest | Shaner, Harvey |
| Keiser, Paul J. | Bachman, Calvin J. |
| Greenawald, Stanely | Werst, Arthur |
| Keiser, Howard | Warmuth, Arthur |
| Keller, Ernest | Lackner, Alfred |
| Kenney, James | Fisher, Charles |
| Lehman, Abe | Weidner, Elwood |
| Ahn, Irwin | Reppert, Paul H. |
| Behm, William | Werst, Raymond P. |
| Berstler, Milton | Raunzahn, George |
| Blank, Harold | Blank, Morris |
| Boyer, David | Boyer, Paul |
| Burkert, Luther | Mengel, Wm. |
| Bailey, John | Mathew, Ervin |
| Bailey, Warren | Price, John |
| Carl, Harry R. | Moyer, Paul |
| Conrad, Ernest | Merkle, Percy H. |
| Dankle, Glenroy | Merkle, Harvey |
| Deisher, Edna | Nester, Russel |
| Delong, Alvin | Oswald, Raymond D. |
| Delong, Jacob | Reinert, Isialah |
| Geist, Elwood | Reinert, John |
| Greenawald, Willard | Reppert, Harry |
| Geist, Raymond | Stump, Calvin |
| Hilbert, Victor | Siegfried, Elda |
| Heiter, Evelyn | Rader, Raymond |
| Delong, George | Rauenzahn, William P. |
| Hilbert, John | Frederick, Lester |
| Hertzog, George | Stofflet, George |
| Hilbert, Jared | Schmalient, Frank |
| Keiser, Paul W. | Greenawald, Herman |
| Keiser, Edwin | Seip, Paul |
| Kerchner, Edwin | Werst, William O. |
| Keiser, Katherine | Geist, Harry W. |
| Keller, Harry | Lackner, Bernard |
| Kunkle, George | Fisher, Reynold |
| Miller, Curtis | Kratzer, Norman H. |

APPENDIX "A"—Continued

Vergey, Raymond
Heffner, Clarence
Reese, William
Steffy, Ralph
Heffner, Webster
Derr, Leon
Schleicha, Paul
Weller, Emanuel
Werst, Thomas
Selfeis, Jennings
Reinert, John R.
Warmuth, Lawson
Hoffman, Harvey
Walbert, Clarence
Shaner, Charles R.
Schuler, James
DeLong, Raymond
DeLong, Daniel
Miller, John J.
Muthard, Henry
Rothermel, George
Stevens, Clifford
Koch, Warren
Heiter, Charles
Brinzenhoff, Harold
Heiser, Clifford
Reinert, Fred
Ahn, Byron
Oswald, Henry
Sechler, Harold
Angstadt, Morris
DeLong, Elwood
Szilli, Frank, Jr.
Bachman, Ralph
Alecander, Benjamin
Bleiler, Thomas
Christman, Ralph
DeLong, Francis
Hertzog, John R.
Heiser, Paul
Hoanzel, Frank
Moll, Ernest
Kern, Sherwood
Wack, William H.
Long, John W.
Kocher, Floyd
Heffner, Paul
Breinsinger, Nathan
Hertzog, John
Carl, Merlin
Miller, Frank
Heffner, Fred
Conrad, Charles
Hass, Wayne
Croninger, George
Bauer, Charles
Nest, Rufus
Moyer, Howard
Rhode, Russell
Wagner, James
Wehr, Charles
Bauman, Ralph
Lantz, Paul
Reifinger, Joseph
Breisinger, Eugene
Bohn, James
Druckenmiller, Ralph
Dry, Walter
Eck, Earl
Geist, Herbert A.
Gambler, Russel
Hilbert, Freemond
Hertzog, Herbert
Hilbert, Earl
Kercher, Elmer
Miller, Walter
Moyer, Robert
Oswald, Elmer
Reichard, Wm., Jr.
Reinert, Elmer
Stoudt, John R.
Schade, Edwin
Sheemaker, Charles
Snyder, Clarence
Schauer, Howard
Weller, Frank
Fritz, Joseph
Geist, Milton
Henry, Boyd
Hilbert, Earl F.
Hilbert, George
Hilbert, Lester
Latschaw, Milton
Miller, Harry
Miller, Herbert
Pilgert, Ralph
Reifinger, Lloyd
Reichard, Wm., Sr.
Showalter, Roy
Stump, Ira
Smith, Walter
Stettler, Samuel
Trumbauer, Arthur
Reichart, Adam