

In the Matter of HOOD RUBBER COMPANY, INC. (ARROW BATTERY PRODUCTS DIVISION) and INTERNATIONAL UNION, UNITED AUTOMOBILE WORKERS OF AMERICA

Case No. R-545.—Decided February 9, 1938

Automobile Battery Container Manufacturing Industry—Investigation of Representatives: refusal by employer to recognize petitioning union as bargaining agent of its employees until question of representation is determined by Board—*Unit Appropriate for Collective Bargaining:* production and maintenance employees; eligibility for membership in only organization among employees; functional coherence; no controversy as to—*Representatives:* proof of choice: membership application cards—*Certification of Representatives:* upon proof of majority representation.

Mr. Peter J. Crotty, for the Board.

Franchot, Runals, Cohen, Taylor, and Rickert, by *Mr. Thomas Rickert*, of Niagara Falls, N. Y., for the Company.

Mr. Daniel B. Shortal, of Buffalo, N. Y., for the U. A. W. A.

Mr. Abraham J. Harris, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On December 1, 1937, International Union, United Automobile Workers of America,¹ herein called the U. A. W. A., filed with the Regional Director for the Third Region (Buffalo, New York), a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Hood Rubber Company, Inc. (Arrow Battery Products Division), Niagara Falls, New York, 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 28, 1937, 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 Regula-

¹ The petition was filed by International Union, United Automobile Workers of America, but from the record it is evident that International Union, United Automobile Workers of America, Local No. 571, seeks certification.

tions—Series 1, 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 31, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and upon the U. A. W. A. Pursuant to the notice, a hearing was held on January 6, 1938, at Buffalo, New York, before Mark De Wolfe Howe, the Trial Examiner duly designated by the Board. The Board, the Company, and the U. A. W. A. were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Hood Rubber Company, Inc., is a corporation organized in 1929 under the laws of the State of Delaware. Its principal factory is in Watertown, Massachusetts, but it has since the date of its incorporation operated the so-called Arrow Battery Products Division at Niagara Falls, New York, herein called the Arrow Division. The Arrow Division, the only part of Hood Rubber Company, Inc., here involved, manufactures automobile battery containers. The principal raw materials purchased by the Arrow Division are cotton linters, natural asphalt, petroleum asphalt, pyrophyllite, and 4BB mineral. All these raw materials used by the Arrow Division in 1937 were obtained from outside the State of New York.

In 1937 the Arrow Division manufactured approximately 1,000,000 containers having a value of approximately \$414,000. Approximately a third of its total products are shipped to points outside the State of New York, to buyers in Indianapolis, Indiana, and Oklahoma City, Oklahoma.

II. THE ORGANIZATION INVOLVED

International Union, United Automobile Workers of America, Local No. 571, is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all non-clerical, nonsupervisory production, and maintenance employees of the Arrow Division.

III. THE QUESTION CONCERNING REPRESENTATION

Beginning in August 1937, the U. A. W. A. organized the employees of the Arrow Division. By November 17, 1937, the U. A. W. A. claimed as members a majority of such employees. On that date, and on several occasions thereafter, the U. A. W. A. asked the Company to recognize it as the exclusive bargaining agency for the Company's employees in the Arrow Division. The Company refused recognition stating that it required proof that the U. A. W. A. represented a majority of the employees of the Arrow Division. When the U. A. W. A. submitted evidence of such a majority, the Company was not satisfied with it, and indicated that it desired the Board to hold a hearing to determine the question of representation.

We find that a question has arisen concerning 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

The U. A. W. A. considers the appropriate unit to be the nonclerical, nonsupervisory production employees of the Company at Niagara Falls, New York, all such employees being within the jurisdiction of the U. A. W. A. There is no dispute as to the appropriateness of such a unit. The evidence in the record amply supports it. The operations of the Arrow Division are closely integrated and interrelated and are conducted as a unit.

We find that the production and maintenance employees of the Company, at Niagara Falls, New York, excluding clerical and supervisory employees, constitute a unit appropriate for the purposes of collective bargaining and 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 effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

It was stipulated at the hearing that on December 31, 1937, there were 21 employees in the appropriate unit on the Company's pay roll. At the hearing the U. A. W. A. introduced in evidence 25 duly

authenticated application cards for membership in the U. A. W. A., and it was testified that such applicants had become members of the U. A. W. A. Eighteen of the Company's employees on December 31, 1937, within the appropriate unit had signed such applications. The other seven applications had been signed by seven of thirteen employees of the Company who had been laid off for lack of work on December 4, 1937.

The Company objected to the admission of the application cards in evidence on the ground that they were irrelevant as being merely applications for membership in the U. A. W. A. and not selections of the U. A. W. A. as the bargaining agent of the applicants. The Trial Examiner overruled the objection. We affirm his ruling. The objection has no merit. The applicants, merely by requesting membership in the U. A. W. A., sufficiently indicated their desire to have that organization act as their representative for the purposes of collective bargaining and thereby selected it for that purpose.²

We find that the U. A. W. A. has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining, and we shall so certify.

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 Hood Rubber Company, Inc. (Arrow Battery Products Division), Niagara Falls, New York, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The production and maintenance employees of the Company at Niagara Falls, New York, excluding clerical and supervisory employees, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

3. International Union, United Automobile Workers of America, Local No. 571, is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the National Labor Relations Act.

² *Matter of Elbe File and Binder Company, Inc., and Bookbinders Manifold and Pamphlet Division, Local Union No. 119, International Brotherhood of Bookbinders*, 2 N. L. R. B. 906; *Matter of Clifford M. DeKay, doing business under the trade name and style of D & H. Motor Freight Company and International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers of America, Local Union No. 649*, 2 N. L. R. B. 231.

CERTIFICATION OF REPRESENTATIVES

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 1, as amended,

IT IS HEREBY CERTIFIED that International Union, United Automobile Workers of America, Local No. 571, has been designated and selected by a majority of the production and maintenance employees of Hood Rubber Company, Inc. (Arrow Battery Products Division), Niagara Falls, New York, excluding clerical and supervisory employees, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, International Union, United Automobile Workers of America, Local No. 571, is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.