

In the Matter of SUPERIOR ELECTRICAL PRODUCTS Co. and METAL POLISHERS, BUFFERS, PLATERS AND HELPERS INTERNATIONAL UNION, LOCAL No. 13

Case No. R-601.—Decided March 17, 1938

Electrical Appliances Manufacturing—Investigation of Representatives: petition for, dismissed where filed by labor organization whose members approved the existing contract of the rival organization; no controversy concerning representation.

Mr. Joseph A. Hoskins, for the Board.

Anderson & Whittington, by *Mr. C. J. Anderson*, of St. Louis, Mo., for the Metal Polishers.

Mr. Morris J. Levin, of St. Louis, Mo., for the United.

Miss Ann Landy, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

On May 14, 1937, Metal Polishers, Buffers, Platers and Helpers International Union, Local No. 13, herein called the Metal Polishers, filed with the Regional Director for the Fourteenth Region (St. Louis, Missouri) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Superior Electrical Products Company, St. Louis, Missouri, 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 6, 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 Regulations—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 January 11, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the Metal Polishers and upon the United Electrical, Radio and

Machine Workers of America, Local No. 1117, herein called the United, a labor organization claiming to represent employees directly affected by the investigation.

The United filed an intervening petition in which it requests the Board to certify that the plant unit, including all production employees, is the unit appropriate for the purposes of collective bargaining and that the United is the representative that has been designated by employees in said unit as their representative.

On January 19, 1938, the Regional Director issued an amended notice of hearing, copies of which were duly served on all the parties. Pursuant to the notices, a hearing was held on January 21, 24 and 25, 1937, at St. Louis, Missouri, before Joseph F. Keirman, the Trial Examiner duly designated by the Board. The Board, the Metal Polishers and the United 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

The Company is a Missouri corporation, having its principal office and manufacturing plant in St. Louis, Missouri. It is engaged in manufacturing electrical household appliances, such as flat irons, toasters, heaters and waffle irons. Gross sales for the year 1937 amounted to \$400,000. The Company employs approximately 125 employees, 115 of whom are in production work. The principal raw materials used are steel and aluminum and iron casting, 60 per cent of such materials being obtained from points outside of the State of Missouri. Ninety per cent of the finished products are sold in States other than Missouri and in foreign countries. The Company admits the interstate character of its business.

II. THE ORGANIZATIONS INVOLVED

Metal Polishers, Buffers, Platers and Helpers International Union Local No. 13, is a labor organization affiliated with the American Federation of Labor, admitting to its membership all employees of the Company engaged in metal polishing, buffing, plating and grinding.

United Electrical, Radio and Machine Workers of America, Local No. 1117, is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all production employees of the Company, excluding office workers and clerical and supervisory employees.

III. WHETHER A QUESTION CONCERNING REPRESENTATION HAS ARISEN

In 1933 the Metal Polishers attempted to organize the metal polishers, buffers and platers employed by the Company. A strike was then called, which ended without achieving any success. In the spring of 1937, the Metal Polishers renewed its efforts to secure membership in the plant. On May 10, 1937, its organizers contacted Haas, president of the Company, and asked him to recognize the Metal Polishers as the representative of the majority of employees in the metal polishing department. At the time Haas was already negotiating with the United and therefore refused to pass upon the claim made by the Metal Polishers. Ten days later the petition in this proceeding was filed.

On June 23, 1937, the United called a strike. All employees, including those in the metal polishing department, walked out and did not return until after a contract was signed between the Company and the United. During the strike members of both unions in the metal polishing department participated in the picketing and attended meetings held by the United. Frank David, member of the Metal Polishers for twenty-eight years, and seemingly its most zealous and influential representative among the Company's employees, testified that he, together with approximately two-thirds of the employees in the metal polishing department, attended the meeting where the terms of the contract were submitted and approved. This testimony was not disputed. The committee, composed of representatives of each department, was selected to negotiate with Haas. Frank David and Elmer Lawrence represented the metal polishing department. The committee succeeded in securing a written contract signed by Haas for the Company.

This contract, executed on August 2, 1937, recognized the United as the exclusive bargaining agency for all the production employees of the Company. It contained provisions relating to hours, wages and conditions of employment. It includes an increase in the hourly rates for metal polishers in accordance with their request. The contract is to remain in effect for one year from the date of its execution. The grievance committee created by the agreement has adjusted several claims since its establishment, some of which arose in the metal polishing department.

Under the facts of this case, we cannot find justification for ordering an election or certification at this time. The contract with the United, covering matters which would be the subject of collective bargaining between the Company and its employees, remains in effect until August 2, 1938. The duration of the contract is not for such a long period as to be contrary to the policies or purposes of the Act. The evidence shows that a majority of the employees in the metal polishing department, whom the Metal Polishers claims to represent, favored the execution of the contract and participated in negotiations for it. Under these circumstances we will not proceed with an investigation of representatives until such time as the contract is about to expire and a question then exists as to the proper representative for collective bargaining with respect to the negotiations of a new agreement.

We will, therefore, dismiss the present petitions without prejudice to renewal at a reasonable time before the expiration of the agreement with the United.

Upon the basis of the above findings of fact and upon the entire record in this case, the Board makes the following:

CONCLUSION OF LAW

No question concerning representation of employees of Superior Electrical Products Company exists within the meaning of Section 9 (c) of the National Labor Relations Act.

ORDER

Upon the basis of the foregoing findings of fact and conclusion of law, the National Labor Relations Board hereby dismisses the Petition for Investigation and Certification filed by Metal Polishers, Buffers, Platers and Helpers International Union, Local No. 13 and the intervening petition filed by United Electrical, Radio and Machine Workers of America, Local 1117.