

In the Matter of OHIO STEEL FOUNDRY COMPANY and INTERNATIONAL
MOLDERS UNION OF NORTH AMERICA

Case No. R-575.—Decided March 22, 1938

Steel Castings Industry—Investigation of Representatives: controversy concerning representation of employees: rival organizations—*Unit Appropriate for Collective Bargaining:* all production and maintenance employees excluding clerical and supervisory employees; no controversy as to—*Election Ordered—Omission of Name of Union from Ballot:* upon request of union—*Petition Dismissed:* no representative chosen by majority of employees.

Mr. Peter Di Leone, for the Board.

Reid & Davison, by *Mr. Leslie Reid*, of Lima, Ohio, for the Company.

Mr. William C. Webb, of Lima, Ohio, for the International.

Mr. Joseph K. Gaither, of Dover, Ohio, for the Amalgamated.

Mr. Sylvester Garrett, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On October 16, 1937, International Molders Union of North America, Local 159,¹ herein called the International, filed with the Regional Director for the Eighth Region (Cleveland, Ohio) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Ohio Steel Foundry Company, Lima, Ohio, 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 17, 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 17, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the

¹Erroneously designated as International Molders Union of North America in the Order Directing Investigation and Hearing.

International, and upon the Amalgamated Association of Iron, Steel, and Tin Workers of North America, herein called the Amalgamated, a labor organization claiming to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held on January 24, 1938, at Lima, Ohio, before Waldo C. Holden, the Trial Examiner duly designated by the Board. The Board, the Company, and the International were represented by counsel and participated in the hearing. The Amalgamated, represented by one of its officers, likewise participated. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. Following due notice to all the parties oral argument on the issues was heard by the Board at Washington, D. C., on February 18, 1938.

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

Ohio Steel Foundry Company, an Ohio corporation, is engaged in the manufacture of steel castings, operating plants at Lima and Springfield, Ohio. The principal raw materials used by it are pig and scrap iron, sand, and fuel oil. Seventy-two per cent of the pig iron, 40 per cent of the scrap iron, 75 per cent of the sand, and 70 per cent of the fuel oil used by the Company are derived from sources outside the State of Ohio. In the year 1937 approximately 48 per cent of the Company's gross sales of \$4,500,000 were shipped to destinations outside Ohio. All of the goods shipped out of the State were sold on special order.

II. THE ORGANIZATIONS INVOLVED

International Molders Union of North America, Local 159, is a labor organization affiliated with the American Federation of Labor, admitting to its membership all production and maintenance employees of the Company, excluding clerical and supervisory employees.

Amalgamated Association of Iron, Steel, and Tin Workers of North America, is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all production and maintenance employees of the Company, excluding clerical and supervisory employees.

III. THE QUESTION CONCERNING REPRESENTATION

Although Company officials met on a number of occasions with representatives of both the International and the Amalgamated for the purpose of discussing grievances, there is no evidence that prior to the filing of the petition in the present case either organization asked to be recognized as the sole bargaining agency for the employees involved. At the hearing, the International claimed to represent 239 of the Company's approximately 420 employees. The Amalgamated claimed that it had about 134 members among such employees.

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

Although the petition is not clear in its description of the appropriate unit, all parties agreed at the hearing that it should include all of the production and maintenance employees of the Company, excluding supervisory and clerical employees.

We find that the production and maintenance employees of the Company, 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

At the hearing the Company introduced in evidence its pay roll of October 30, 1937, containing the names of 417 employees within the appropriate unit. All parties agreed that such pay roll was the proper one for the purpose of determining which organization the employees desired as their representative for the purposes of collective bargaining. The International introduced in evidence 239 cards signed by employees claimed to be within the unit and authorizing the International to represent them. The Amalgamated produced 134 similar cards.

On the basis of its 239 cards, the International requested that it be certified as the sole bargaining agency. The Company agreed not to raise any objection to the authenticity of the cards if the signatures thereon checked against the pay roll and were not duplicated by signatures on the authorization cards of the Amalgamated. We have checked the International's cards against the pay roll, and against the cards submitted by the Amalgamated, and find that the International has been clearly designated by only 158 of the 417 employees in the unit as their agent for the purposes of collective bargaining. The names of 63 persons signing International cards could not be found on the pay roll, and 18 persons signing its cards also signed for the Amalgamated.

We find that the question which has arisen concerning the representation of employees of the Company can best be resolved by the holding of an election by secret ballot. In accordance with the agreement of all parties, eligibility to vote in the election will be determined by reference to the pay roll of the Company for October 30, 1937, excluding those employees who have since quit or have been discharged for cause.

At the hearing the Amalgamated expressed a desire to participate, should an election among the Company's employees become necessary to determine the representative for collective bargaining. At the oral argument before the Board, however, the Amalgamated indicated that in all probability it would refrain from participating in such an election. A subsequent communication to the Board from the Amalgamated, dated February 23, 1938, specifically requests that the Amalgamated be left off the ballot. We shall therefore leave the name of the Amalgamated off the ballot.

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 Ohio Steel Foundry Company, Lima, Ohio, 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, 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.

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 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is hereby

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with Ohio Steel Foundry Company, Lima, Ohio, an election by secret ballot shall be conducted within fifteen (15) days from the date of this Direction, under the direction and supervision of the Regional Director for the Eighth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9, of said Rules and Regulations, among the production and maintenance employees of said Company at its plant in Lima, Ohio, who were on the Company's pay roll of October 30, 1937, excluding clerical and supervisory employees, and those who since have quit or have been discharged for cause, to determine whether or not they desire to be represented by International Molders Union of North America, Local 159, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

[SAME TITLE]

SUPPLEMENTAL DECISION

AND

ORDER

April 25, 1938

On March 22, 1938, the National Labor Relations Board, herein called the Board, issued a Decision and Direction of Election in the above-entitled case. The Direction of Election directed that an election by secret ballot be conducted within fifteen (15) days from the date of the Direction among the production and maintenance employees of Ohio Steel Foundry Company, Lima, Ohio, herein called the Company, at its plant in Lima, Ohio, who were on the Company's pay roll of October 30, 1937, excluding clerical and supervisory employees, and those who since have quit or been discharged for cause, to determine whether or not they desire to be represented by International Molders Union of North America, Local 159, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

Pursuant to the Direction, an election by secret ballot was held on April 6, 1938, at Lima, Ohio, under the direction and supervision of James P. Miller, the Regional Director for the Eighth Region (Cleveland, Ohio). On April 8, 1938, the said Regional Director, acting pursuant to Article III, Section 9, of National Labor Rela-

tions Board Rules and Regulations—Series 1, as amended, issued and duly served upon the parties an Intermediate Report on the election. No exceptions to the Intermediate Report have been filed by any of the parties.

As to the results of the secret balloting, the Regional Director reported as follows:

Total number of employees eligible.....	418
Total number of ballots cast.....	360
Total number of votes for International Molders Union of North America.....	135
Total number of votes against International Molders Union of North America.....	217
Total number of blank ballots.....	4
Total number of void ballots.....	2
Total number of challenged votes.....	2

The results of the election show that no collective bargaining representatives have been selected by a majority of the employees. The petition for investigation and certification of representatives of employees of the Company will therefore be dismissed.

ORDER

By virtue of Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, and pursuant to Article III, Sections 8 and 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY ORDERED that the petition for investigation and certification of representatives of employees of Ohio Steel Foundry Company, Lima, Ohio, filed by International Molders Union of North America, Local 159, be, and it hereby is, dismissed.