

In the Matter of CUMMINS ENGINE COMPANY and INTERNATIONAL
UNION UNITED AUTO WORKERS OF AMERICA, LOCAL 516

Case No. C-480.—Decided April 16, 1938

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

Mr. Lester M. Levin, for the Board.

Mr. James A. Ross, of Indianapolis, Ind., for the respondent.

Mr. Ralph Riddle, of Indianapolis, Ind., for the Union.

Mr. Donald P. Shinn, of Indianapolis, Ind., for the Association.

Mr. Langdon West, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Charges and amended charges having been filed by International Union, United Automobile Workers of America, Local 516,¹ herein called the Union, the National Labor Relations Board, herein called the Board, by Robert H. Cowdrill, Regional Director for the Eleventh Region (Indianapolis, Indiana), issued and duly served its complaint and accompanying notice of hearing, dated February 23, 1938, against Cummins Engine Company, Columbus, Indiana, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1), (2), and (3) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

An extension of time within which to answer having been granted, the respondent filed an answer dated March 2, 1938, admitting the allegations as to the nature and scope of its business but denying the allegations of unfair labor practices. On March 14, 1938, the said Regional Director issued his order permitting Cummins Employees' Association, herein called the Association, to intervene.

¹ In the pleadings and record of the case the Union was incorrectly designated International Union United Auto Workers of America, Local 516.

Pursuant to notice a hearing was held at Columbus, Indiana, on March 17, 1938, before James L. Fort,² the Trial Examiner duly designated by the Board. The Board, the respondent, the Union, and the Association were represented by counsel. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties.

On March 17, 1938, the Board and the respondent, respectively, by counsel, entered into a stipulation concerning the nature of the respondent's business. This stipulation was admitted to the record in the case without objection from any party to the proceeding. On the same date the Board, the respondent, and the Union, respectively, by counsel, entered into a stipulation concerning an order which the Board, upon its approval, might enter in the case. Over the objection of counsel for the Association this stipulation was admitted to the record by the Trial Examiner. His ruling is hereby affirmed.³ The hearing was then adjourned.

On March 23, 1938, pursuant to Article II, Section 37, of National Labor Relations Board Rules and Regulations—Series 1, as amended, the Board issued an order transferring the proceeding to the Board.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

The Cummins Engine Company is and has been, since its incorporation in the State of Indiana in 1919, a corporation engaged in the manufacture of diesel engines, with its office and principal place of business at Columbus, Indiana.

The raw materials used by the Company in its business are grey iron castings, alloy steels, electrical apparatus, and steel forgings. About 45 per cent of these purchases, amounting to approximately \$2,102,000 in a year of average business, are shipped to the respondent's plant from points outside the State of Indiana. In the year 1937, the Company manufactured approximately 1,700 engines, valued at \$3,100,000. Eighty per cent of these finished products were shipped to States other than the State of Indiana, and to foreign countries. The shipments were made both by rail and truck carriers.

We find that the respondent's operations at the Columbus, Indiana, plant constitute a continuous flow of trade, traffic, and commerce among the several States and with foreign nations.

² The official reporter throughout the record incorrectly referred to the Trial Examiner as James L. Ford.

³ See *National Labor Relations Board v. Pennsylvania Greyhound Lines, Inc., and Greyhound Management Company*, 303 U S 261 (1938).

II. THE BASIS OF THE SETTLEMENT

The stipulation between the Board, the respondent, and the Union provides as follows:

It is hereby stipulated by and between the Cummins Engine Company, respondent herein, and the International Union United Auto Workers of America, Local 516, and the National Labor Relations Board (hereinafter called the Board) that upon the record herein and upon this stipulation, if approved by the Board, an order may be forthwith entered by said Board providing as follows:

1. Respondent, the Cummins Engine Company, will cease and desist:

(a) From in any manner interfering with, restraining or coercing its 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 purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act;

(b) Dominating or interfering with the formation or administration of the Cummins Employees' Association, or any other labor organization, and shall cease and desist contributing financial or other support to said Cummins Employees' Association, or any other labor organization, except that respondent may permit employees to confer with it during working hours without loss of pay or time;

(c) From, in any manner, recognizing the Cummins Employees' Association as the bargaining agency of its employees, or from continuing in any contractual relationship with the Cummins Employees' Association;

(d) From discouraging membership in the International Union United Auto Workers of America, Local 516, or in any other labor organization of its employees: by discharging, threatening, or refusing to reinstate any of its employees for joining the International Union United Auto Workers of America, Local 516, or any other labor organization of its employees;

(e) From, in any manner, discriminating against any of its employees in regard to the hire and tenure of employment or any term or conditions of employment for joining the International Union United Auto Workers of America, Local 516, or any other labor organization of its employees.

2. Respondent, the Cummins Engine Company, will take the following affirmative action to effectuate the policies of the National Labor Relations Act:

(a) Withdraw recognition from and disestablish as an agency of collective bargaining the Cummins Employees' Association; inform in writing the officers of the Cummins Employees' Association that it will not, in any manner, deal with or recognize such organization and will withdraw from any contractual relationship with said organization;

(b) Offer to David Hodler, Carl Small, Harry Jordan, Ervin Blythe, Leonard Chandler immediate and full reinstatement to their former positions without prejudice to any rights and privileges previously enjoyed by them;

(c) Pay the stated sum of \$200.00 to Carl Small; \$175.00 to Harry Jordan; \$175.00 to David Hodler; \$100.00 to Leonard Chandler; and, \$100.00, to Ervin Blythe, which stated amounts approximate the loss of pay suffered by said individuals, and each of them, by reason of their discharge;

(d) Make whole to: Ray Armstrong, Ervin Blythe, Leonard Chandler, Wilbur Clark, Lloyd Grow, Forrest Harris, Grover Hern, Chester Hodler, Jack Hogan, John King, Paul Laurie, William McComas, Jack Morris, Paul Parisho, William Puliam, Frank Sullivan, Edward West, Thomas West, and Walter Williams for any loss of pay they suffered by reason of the lay-off in the months of June and July 1937, by payment to them of a sum of money equal to that which they would normally have earned from the date of their lay-off to the date of their reinstatement, computed at their regular rate of pay per week;

(e) Pay the stated sum of \$50.00 to Jack Hogan, John King and Wilbur Clark, in addition to the sums received by the said individuals, and each of them, by virtue of their lay-off during the months of June and July 1937;

(f) Offer employment to Walter Williams, in accordance with his seniority rights;

(g) Put Raymond Armstrong and Grover Snider on a preference list to be employed before any new employees in the departments in which they were formerly employed;

(h) Post and keep visible in conspicuous places about its plant in the City of Columbus, State of Indiana, for a period of thirty (30) days after receipt, a copy of the order to be entered by the National Labor Relations Board to be made herein.

ORDER

Upon the basis of the above stipulations and upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Cummins Engine Company, Columbus, Indiana, and its officers, agents, successors, and assigns, shall:

1. Cease and desist:

(a) From in any manner interfering with, restraining or coercing its 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 purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act;

(b) From dominating or interfering with the formation or administration of the Cummins Employees' Association, or any other labor organization, and from contributing financial or other support to said Cummins Employees' Association or any other labor organization, except that the respondent may permit employees to confer with it during working hours without loss of pay or time;

(c) From in any manner recognizing the Cummins Employees' Association as the bargaining agency of its employees, or from continuing in any contractual relationship with the Cummins Employees' Association;

(d) From discouraging membership in the International Union, United Automobile Workers of America, Local 516, or in any other labor organization of its employees by discharging, threatening, or refusing to reinstate any of its employees for joining the International Union, United Automobile Workers of America, Local 516, or any other labor organization of its employees;

(e) From in any manner discriminating against any of its employees in regard to the hire and tenure of employment or any term or conditions of employment for joining the International Union, United Automobile Workers of America, Local 516, or any other labor organization of its employees.

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

(a) Withdraw recognition from and disestablish as an agency of collective bargaining the Cummins Employees' Association; inform in writing the officers of the Cummins Employees' Association that it will not, in any manner, deal with or recognize such organization and will withdraw from any contractual relationship with said organization;

(b) Offer to David Hodler, Carl Small, Harry Jordan, Ervin Blythe, Leonard Chandler immediate and full reinstatement to their former positions without prejudice to any rights and privileges previously enjoyed by them;

(c) Pay the stated sum of \$200.00 to Carl Small; \$175.00 to Harry Jordan; \$175.00 to David Hodler; \$100.00 to Leonard Chandler; and, \$100.00, to Ervin Blythe, which stated amounts approximate the loss of pay suffered by said individuals, and each of them, by reason of their discharge;

(d) Make whole Ray Armstrong, Ervin Blythe, Leonard Chandler, Wilbur Clark, Lloyd Grow, Forrest Harris, Grover Hern, Chester Hodler, Jack Hogan, John King, Paul Laurie, William McComas, Jack Morris, Paul Parisho, William Pulliam, Frank Sullivan, Edward West, Thomas West, and Walter Williams for any loss of pay they suffered by reason of the lay-off in the months of June and July 1937, by payment to them of a sum of money equal to that which they would normally have earned from the date of their lay-off to the date of their reinstatement, computed at their regular rate of pay per week;

(e) Pay the stated sum of \$50.00 to Jack Hogan, John King and Wilbur Clark, in addition to the sums received by the said individuals, and each of them, by virtue of their lay-off during the months of June and July 1937;

(f) Offer employment to Walter Williams, in accordance with his seniority rights;

(g) Put Raymond Armstrong and Grover Snider on a preferential list to be employed before any new employees in the departments in which they were formerly employed;

(h) Post and keep visible in conspicuous places about its plant in the City of Columbus, State of Indiana, for a period of thirty (30) days after receipt, a copy of the order made herein.