

In the Matter of CLEVELAND EQUIPMENT WORKS and UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA, LOCAL 707 .

Case No. R-630.—Decided April 22, 1938

Electrical Manufacturing Industry: controversy concerning representation of employees: refusal by employer to recognize petitioning union as exclusive representative of employees—*Unit Appropriate for Collective Bargaining:* no controversy; all production and maintenance employees in plant, including plant clerical workers, but excluding other clerical and supervisory employees—*Representatives:* proof of choice: union membership cards; stipulation—*Certification of Representatives:* upon proof of designation by majority.

Mr. Harry L. Lodish and Mr. Peter Di Leone, for the Board.

Mr. M. J. Hamner, of Cleveland, Ohio, for the Company.

Mr. James Pascoe, of Fort Wayne, Ind., for the Union.

Mr. David Y. Campbell, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On December 28, 1937, United Electrical, Radio and Machine Workers of America, Local 707, herein called the Union, filed with the Regional Director for the Eighth Region (Cleveland, Ohio) a petition alleging that a question affecting commerce had arisen concerning representation of employees of Cleveland Equipment Works, Cleveland, Ohio, herein called the Cleveland Works, of General Electric Company, 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 February 21, 1938, 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 March 3, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and the Union. Pursuant to notice, a hearing was held on March 11, 1938, at Cleve-

land, Ohio, before Harlow Hurley, the Trial Examiner duly designated by the Board. The Board was represented by counsel, and the Company and the Union were represented and participated in the hearing. Full opportunity to be heard, to examine and 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 Cleveland Equipment Works is located in Cleveland, Ohio, and forms a part of the Incandescent Lamp Department of General Electric Company, a New York corporation, whose main plant is located in Schenectady, New York.

The Cleveland Works manufactures lamp-making machinery, which is sold to other departments and to licensees of the Company. During 1937, the Cleveland Works purchased approximately \$500,000 worth of raw materials, consisting principally of wire, castings, asbestos and other composition materials, rolled and sheet metals, motors, switches and other electrical materials, pipe and fittings, lumber, and transmission materials. Approximately 47 per cent of the raw materials were received from outside the State of Ohio. During 1937, the total sales of the Cleveland Works amounted to \$2,000,000 in value, 68 per cent of the finished products being shipped out of the State of Ohio.

The Company admits that it is subject to the jurisdiction of the Board.

II. THE ORGANIZATION INVOLVED

United Electrical, Radio and Machine Workers of America, Local 707, is a labor organization, affiliated with the Committee for Industrial Organization, and admitting to its membership all production and maintenance employees of the Company at the Cleveland Works, except supervisory employees.

III. THE QUESTION CONCERNING REPRESENTATION

Both prior and subsequent to the filing of the petition the Company bargained collectively with the Union, but has refused to recognize the Union as the exclusive representative of its employees at

the Cleveland Works, although the Union claims to have been designated by a substantial majority thereof. Under the terms of a national agreement entered into between the Company and the Union, the latter is recognized as the sole collective bargaining agent in those plants of the Company, of which the Cleveland Works is one, in which the Union has been designated or recognized as the sole collective bargaining agency through the media of an election or certification pursuant to Section 9 (c) of the Act, or through other appropriate means satisfactory to both parties.

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 at the Cleveland Works, 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 Union contended at the hearing that the appropriate unit should consist of all production and maintenance employees of the Cleveland Works, except supervisory and clerical employees. However, in its petition the Union did not exclude clerical employees from the unit alleged to be appropriate. Furthermore, it appears from the field examiner's report of investigation, which was admitted into evidence by stipulation, that the Union has authorization cards from a majority of the 30 clerical employees in the factory and that the Union desires said employees to be included in the appropriate unit. These clerical employees are timekeepers, stock clerks, stockchasers, dispatch clerks, and a shipping clerk, whose duties are closely connected with those of the other production employees. From this it appears that the definition of the appropriate unit as requested at the hearing may be somewhat inaccurate or misleading in its use of the term "clerical employees," without restriction, in designating the class of employees to be excluded from the appropriate unit. Apparently, the Union desires to include within the bargaining unit all clerical workers in the plant proper, but to exclude those clerical employees in the office. The Company introduced no evidence bearing upon the question of the appropriate unit.

We find that all production and maintenance employees of the Company at the Cleveland Works, including plant clerical employees, but excluding other 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

As of December 31, 1937, there were 436 employees on the pay roll of the Cleveland Works in the appropriate unit. From a comparison of the Union's authorization cards and the pay roll of the Cleveland Works as of that date, made by the Board's field examiner; the results of which have been stipulated to by the Company, it appears that the Union has been designated by 392 of the said employees as their representative for collective bargaining with the Company. The authenticity of the signatures on the authorization cards is admitted by the Company. The Company's only contention is that some of the authorization cards were signed by its employees without their having read or having knowledge of the contents of the cards. For this reason the Company requests that the Board direct a secret election rather than certify on the basis of the authorization cards. No evidence, however, was introduced to support such contention.

We find that the Union has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of all employees in such unit for the purposes of collective bargaining, and we will 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 representation of employees of Cleveland Equipment Works, Cleveland, Ohio, of General Electric Company, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.
2. All production and maintenance employees of the Company at the Cleveland Works, including plant clerical employees, but excluding other clerical and supervisory employees, constitute a unit appropriate for collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.
3. United Electrical, Radio and Machine Workers of America, Local 707, 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.

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 United Electrical, Radio and Machine Workers of America, Local 707, has been designated and selected by a majority of the production and maintenance employees of Cleveland Equipment Works, Cleveland, Ohio, of General Electric Company, including plant clerical employees, but excluding other 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, United Electrical, Radio and Machine Workers of America, Local 707, 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.