

In the Matter of ROBBINS & MYERS, INCORPORATED *and* JOINT AMERICAN FEDERATION COMMITTEE FOR THE ROBBINS & MYERS CO. PLANT

In the Matter of ROBBINS & MYERS, INCORPORATED *and* FIREMEN & OILERS INT'L. UNION, AFFILIATED WITH A. F. OF L.

In the Matter of ROBBINS & MYERS, INCORPORATED *and* PATTERN MAKERS LEAGUE OF NORTH AMERICA

Cases Nos. R-739, R-740, and R-741, respectively.—Decided June 23, 1938

Electrical Appliances Manufacturing Industry—Investigation of Representatives: controversy concerning representation of employees: majority status disputed by employer, in one unit; employer's refusal to grant recognition of unions as exclusive bargaining agencies in two units until question of representation is determined by Board; rival organizations—*Units Appropriate for Collective Bargaining:* three units: firemen; pattern makers and pattern makers apprentices; production and maintenance workers, exclusive of pattern makers, pattern makers apprentices, firemen, foremen, assistant foremen, supervisors in charge of any class of labor, the chief timekeeper, and employees on the office pay roll; stipulation as to—*Representatives:* proof of choice: stipulation as to majority representation in two units—*Certification of Representatives:* upon proof of majority representation—*Election Ordered:* in one unit, pursuant to stipulation.

Mrs. Mary Telker Iliff, for the Board.

Martin & Corry, by *Mr. Homer Corry*, of Springfield, Ohio, for the Company.

Mr. Ray Kelsay, of Cincinnati, Ohio, for the Federation.

Mr. Arthur A. Auchey, of Dayton, Ohio, for the Firemen.

Mr. C. D. Madigan, of Cleveland, Ohio, for the League.

Mr. James B. Malone, of Springfield, Ohio, for the Association.

Mr. Willard Y. Morris, of counsel to the Board.

DECISION

CERTIFICATION OF REPRESENTATIVES

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On April 9, 1938, Joint American Federation Committee for the Robbins & Myers Co. Plant, herein called the Federation; Interna-

tional Brotherhood of Firemen and Oilers, Local 295, affiliated with the American Federation of Labor,¹ herein called the Firemen; and Pattern Makers League of North America, herein called the League, filed with the Regional Director for the Ninth Region (Cincinnati, Ohio), three separate petitions alleging that questions affecting commerce had arisen concerning the representation of employees of Robbins & Myers Company,² herein called the Company, who are employed at its plant in Springfield, Ohio, 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 May 6, 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; and the Board further ordered, pursuant to Article III, Section 10 (c) (2), of said Rules and Regulations, that the three cases be consolidated for the purposes of the hearing.

On May 12, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, the Federation, the Firemen, the League, Robbins & Myers Employees' Association, herein called the Association, a labor organization claiming to represent employees directly affected by the investigation, and United Radio, Electrical and Machine Workers of America, affiliated with the Committee for Industrial Organization, herein called the United. Pursuant to the notice, a hearing was held on May 19, 1938, at Springfield, Ohio, before Webster Powell, the Trial Examiner duly designated by the Board. The Board, the Company, the Federation, and the Association were represented by counsel; and the Firemen and the League were represented by their representatives. All, except the United, which did not enter an appearance, 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 these rulings and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

¹ The Firemen's petition and the Board's order authorizing investigation set forth the name of the Firemen in the abbreviated form appearing in the caption of this case.

² At the opening of the hearing counsel for the Board moved to amend the formal papers filed by the Board by striking out the name, Robbins & Myers Company, and substituting therefor Robbins & Myers, Incorporated. The name of the Company appearing in the caption of this case conforms to this amendment.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY³

Robbins & Myers, Incorporated, is an Ohio corporation, having its principal place of business in Springfield, Ohio, and is engaged in the manufacture, sale, and distribution of electric motors, fans, electric and hand joists, and Moyno pumps. In 1937 more than 40 per cent of the raw materials used by the Company at its Springfield, Ohio, plant were obtained outside the State of Ohio; and 80 per cent of the goods represented in the gross sales of its finished products were shipped outside the State of Ohio. The Company has sales offices in New York City, Philadelphia, Chicago, San Francisco, Kansas City, Dallas, and New Orleans. Shipments are made to and from the Company's plant by rail and truck.

II. THE ORGANIZATIONS INVOLVED

Joint American Federation Committee for the Robbins and Myers Co. Plant is composed of various craft unions in the metal trades, all affiliated with the American Federation of Labor. Its component craft unions collectively admit to membership all production employees, excluding firemen and oilers, pattern makers and apprentices, supervisory employees, foremen, timekeepers, and all confidential and salaried employees.

International Brotherhood of Firemen and Oilers, Local 295, is a labor organization affiliated with the American Federation of Labor, admitting to membership only firemen and oilers who work in power plants.

Pattern Makers League of North America is a labor organization affiliated with the American Federation of Labor. It admits to membership pattern makers and apprentices in the wood and metal trades.

Robbins & Myers Employees' Association is an unaffiliated labor organization, admitting to its membership all production employees in the Company's plant.

III. THE QUESTIONS CONCERNING REPRESENTATION

In February 1938 the Company announced a proposed wage cut. Thereafter, representatives of the Federation conferred with officials of the Company and claimed to represent a majority of the produc-

³ The facts set forth in this section are based upon a stipulation entered into by all the parties.

tion employees. The Company officials denied the Federation's claim and refused to grant it exclusive bargaining rights.

The Firemen also approached the Company officials at the time of the proposed wage cut. There were some negotiations, but they failed to ripen into an agreement. The officials of the Company finally informed the representatives of the Firemen that the Company would not recognize it as the exclusive bargaining agency for the firemen until so certified by the Board.

The Company at a conference with the representatives of the League informed them that it would not recognize the League as the exclusive representative of the pattern makers and apprentices until it was so certified by the Board.

We find that questions have arisen concerning representation of employees of the Company.

IV. THE EFFECT OF THE QUESTIONS CONCERNING REPRESENTATION UPON COMMERCE

We find that the questions concerning representation which have arisen, occurring in connection with the operations of the Company described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE APPROPRIATE UNITS

All parties appearing at the hearing stipulated that there are three appropriate units among the Company's employees at its Springfield plant, namely:

1. The firemen employed at the Springfield Plant of Robbins and Myers, Inc. constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the said Act.

2. The pattern makers and pattern makers apprentices at the Springfield plant of Robbins & Myers, Inc. constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of said Act.

3. The production and maintenance workers at the Springfield plant of Robbins & Myers, Inc. exclusive of pattern makers, pattern makers apprentices, firemen, foremen, assistant foremen, supervisors in charge of any class of labor, the chief timekeeper and those employees on the office pay roll constitute a unit appropriate for collective bargaining within the meaning of Section 9 (b) of said Act.

Accordingly, we find:

(1) That the firemen employed at the Company's Springfield, Ohio, plant constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to such 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;

(2) That the pattern makers and pattern makers apprentices at the Company's Springfield, Ohio, plant constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to such 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; and

(3) That the production and maintenance workers at the Company's Springfield, Ohio, plant, exclusive of pattern makers, pattern makers apprentices, firemen, foremen, assistant foremen, supervisors in charge of any class of labor, the chief timekeeper, and those employees on the office pay roll, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to such employees of the Company the full benefit of their right to self-organization and collective bargaining and otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

It was stipulated by all parties appearing at the hearing that the Firemen represents a majority of the employees in an appropriate unit composed of firemen; and that the League represents a majority of the employees in an appropriate unit composed of pattern makers and pattern makers apprentices.

We find that International Brotherhood of Firemen and Oilers, Local 295, affiliated with the American Federation of Labor, has been designated and selected by a majority of the employees in an appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purposes of collective bargaining, and we will so certify.

We find that Pattern Makers League of North America has been designated and selected by a majority of the employees in an appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purposes of collective bargaining, and we will so certify.

Representatives of the Association testified at the hearing that the Association was formed in August 1937, at which time they enrolled a majority of the Company's production and maintenance em-

ployees. Representatives of the Federation testified that they began organization among the Company's employees in February 1938, and that by the end of that month they had achieved a membership of a majority of the production and maintenance employees. Neither labor organization introduced evidence sufficient to serve as a basis for certification. All parties stipulated that the Board should direct the holding of an election by secret ballot among the Company's production and maintenance workers, exclusive of pattern makers, pattern makers apprentices, firemen, foremen, assistant foremen, supervisors in charge of any class of labor, the chief timekeeper, and those employees on the office pay roll, to determine whether they desire to be represented by the Federation or by the Association or by neither. Accordingly, we find that the holding of an election by secret ballot is necessary to resolve the question which has arisen concerning representation of employees of the Company in this unit.

The Association urges that the date for determining eligibility to vote in the election should not be a date prior to April 9, 1938, the date of the filing of the petition. The Federation urges the adoption of February 28, 1938, as the determinative date, on the ground that thereafter a substantial number of employees were laid off. A comparison of the Company's pay rolls for February 25, 1938, and April 3, 1938, shows that 94 employees were laid off between those two dates. According to the uncontradicted testimony of a representative of the Association the Company customarily kept the names of laid-off employees on the pay roll for 2 weeks after the lay-off and that thereafter their names were dropped from the pay roll, but that employees who had been laid off without "fault of their own" were "subject to call" even after their names had been removed from the pay roll. Under these circumstances the employees laid off after February 28, 1938, may reasonably expect to return to the Company's employ. Since it is our desire to insure eligibility to the largest number of employees affected by our determination of representatives, those eligible to vote in the election shall be the employees in the appropriate unit employed during the pay-roll period ending February 25, 1938, which is the pay-roll period immediately preceding February 28, 1938.

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. Questions affecting commerce have arisen concerning the representation of employees of Robbins & Myers, Incorporated, Springfield, Ohio, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The firemen employed at the Company's Springfield, Ohio, plant 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 Brotherhood of Firemen and Oilers, Local 295, affiliated with the American Federation of Labor, 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.

4. The pattern makers and pattern makers apprentices at the Company's Springfield, Ohio, plant constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

5. Pattern Makers League of North America, affiliated with the American Federation of Labor, 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.

6. The production and maintenance workers at the Company's Springfield, Ohio, plant, exclusive of pattern makers, pattern makers apprentices, firemen, foremen, assistant foremen, supervisors in charge of any class of labor, the chief timekeeper, and those employees on the office pay roll, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) 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 International Brotherhood of Firemen and Oilers, Local 295, affiliated with the American Federation of Labor, has been designated and selected by a majority of the firemen of Robbins & Myers, Incorporated, Springfield, Ohio, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, International Brotherhood of Firemen and Oilers, Local 295, affiliated with the American Federation of Labor, 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; and

IT IS HEREBY CERTIFIED that Pattern Makers League of North America has been designated and selected by a majority of the pat-

tern makers and pattern makers apprentices of Robbins & Myers, Incorporated, Springfield, Ohio, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, Pattern Makers League of North America 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.

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 the purposes of collective bargaining with Robbins & Myers, Incorporated, Springfield, 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 Ninth 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 workers at the Company's Springfield, Ohio, plant who were employed during the pay-roll period of February 25, 1938, excluding pattern makers, pattern makers apprentices, firemen, foremen, assistant foremen, supervisors in charge of any class of labor, the chief timekeeper, and employees on the office pay roll and also excluding those who have since quit or have been discharged for cause, but including those who have since been laid off only temporarily, to determine whether they desire to be represented by Joint American Federation Committee for the Robbins & Myers Co. Plant or by Robbins & Myers Employees' Association, for the purposes of collective bargaining, or by neither.