

In the Matter of THE BELMONT STAMPING & ENAMELING COMPANY,
A CORPORATION *and* STAMPING & ENAMELING WORKERS FEDERAL
LABOR UNION No. 18816

Case No. R-23.—Decided March 20, 1936

Stamping and Enameling Industry—Unit Appropriate for Collective Bargaining: production and maintenance employees—Election Ordered: question affecting commerce: prior strike caused by employer's refusal to recognize representatives—controversy concerning representation of employees: majority status disputed by employer—agreement for conduct of—Certification of Representatives.

Mr. Harry L. Lodish for the Board.

Wilkin, Fisher & Limbach, by *Judge Robert N. Wilkin* and *Mr. C. A. Fisher*, of New Philadelphia, Ohio, for the Company.

Mr. W. H. Wilson, of Akron, Ohio, for the Union.

Mr. Stanley S. Surrey, of counsel to the Board.

DECISION

STATEMENT OF CASE

In November, 1935 Stamping and Enameling Workers Federal Labor Union No. 18816, hereinafter referred to as the union, petitioned the National Labor Relations Board for an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, approved July 5, 1935. The petition stated that the union represented 280 production employees out of a bargaining unit of approximately 316 employees of that character employed by the Belmont Stamping & Enameling Company, New Philadelphia, Ohio, hereinafter called the company, that the company had refused to recognize the union as the exclusive representative of the employees in that unit, and that such failure gave rise to a question affecting commerce concerning the representation of the employees in the unit. On February 4, 1936, the National Labor Relations 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, authorized the Regional Director for the Eighth Region to conduct an investigation and to provide for an appropriate hearing upon due notice. Pursuant to such authoriza-

tion notice of hearing was issued by the Regional Director on February 7, 1936 and duly served upon the parties.

On February 20, 1936 a hearing was held at New Philadelphia, Ohio, by Saul S. Danaceau, the Trial Examiner designated by the Board, and testimony was taken. Full opportunity to be heard, to examine and to cross-examine witnesses and to introduce evidence bearing upon the issues was afforded to the parties. With the exception of the testimony of the Secretary of the company, which was uncontradicted, the evidence introduced consisted of stipulated facts and documentary evidence. The company objected to the proceedings upon constitutional grounds but participated in the hearing without waiving its rights under said objections.

Upon the record in the case, the stenographic transcript of the hearing, and all the evidence, including oral testimony, documents and other evidence offered and received at the hearing, the Board makes the following:

FINDINGS OF FACT

1. The Belmont Stamping & Enameling Company, an Ohio corporation with its principal office and only plant at New Philadelphia, Ohio, is engaged at said plant in the purchase of raw materials and the manufacture, sale and distribution of kitchen enamel ware.

2. The processes of manufacture at its plant consist of the shaping of the raw sheet steel into the various forms of the products, such as kettles, pots, pans, etc., and the enameling, burning and cleaning of these products.

3. The company for the year 1935 purchased \$369,071.32 worth of raw materials. 87½ per cent of these raw materials came from the State of Ohio while the remainder was shipped into the State of Ohio, principally from Pennsylvania, Indiana, California and Michigan. The raw materials are delivered by truck and rail, the Pennsylvania Railroad Company having two sidings at the company's plant. Most of the purchases are made pursuant to contracts entered into at the company's plant.

4. The manufactured products of the company are sold through sales agents representing the company on a commission basis. These agents are located in New York, Chicago, Boston, Detroit, Cincinnati and San Francisco. In 1935 the company's sales were \$750,999.76. 97 per cent of the products sold were transported, mainly by rail, to points outside of the State of Ohio for use or resale. In all, the company's products are marketed by it in 36 states other than the State of Ohio. Since many of the sales are made to wholesale houses and national low price chain stores, the products are resold in some cases on a national scale. The company has a

small export trade. All of the shipments are f. o. b. New Philadelphia. While the company has no registered trademarks, it does use several labels on its products.

5. The aforesaid operations constitute a continuous flow of trade, traffic and commerce among the several States.

6. The Stamping & Enameling Workers Federal Labor Union No. 18816 is a labor organization. In the summer of 1934 the company due to a decrease in business put a lay-off into effect. Four days later the union voted to strike, the action being taken to obtain a wage increase and recognition of the union. As a result of the strike the plant was completely closed and no products were transported, with the exception of approximately eight carloads which were moved pursuant to an agreement with the union. After several abortive attempts at a settlement, the strike was settled on July 7, 1934 and a "working agreement" became effective.

7. On April 27, 1935 an agreement was concluded between the company and a "committee representing certain of its employees", said committee in fact constituting the representatives of the union although not so described in the agreement.

8. Later in 1935 after the passage of the National Labor Relations Act an agreement was proposed by the union to be entered into between the company and the union designated as such. The company rejected this and proposed an agreement between it and a "committee representing certain of its employees" but refused to recognize said committee as a union committee. The union insisted that it be recognized as the representative of all of the employees in the plant and that an agreement be concluded on that basis. The company has persistently refused to enter into such an agreement, so that there was no agreement between the company and the union in existence at the time of the hearing.

9. It is agreed by the company and the union that the production and maintenance employees, excepting clerical employees, foremen and other supervisory employees, constitute a unit appropriate for the purposes of collective bargaining, and no question is raised concerning said unit. The total number of employees in said unit is approximately 316.

10. At the hearing the union presented 230 cards recently signed by employees in said unit authorizing the union to represent the signatories in collective bargaining with the company. The company refuses to recognize that said cards indicate that a majority of the employees in said unit desire the union so to represent them, and contends that many of the signatures were obtained by coercion and compulsion.

11. By reason of the disputes described above a question concerning the representation of the employees in said unit has arisen.

Such question has led and tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

12. The question concerning representation can be settled by an election conducted by the Board in accordance with Section 9(c) of the Act. The Direction of Election in this case embodies the terms of a stipulation entered into at the hearing.

CONCLUSIONS OF LAW

Upon the basis of the above findings, the following conclusions of law are made by the Board:

1. The production and maintenance employees of the Belmont Stamping & Enameling Company, with the exclusion of clerical employees, foremen and other 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.

2. A question affecting commerce has arisen concerning the representation of the employees in the unit above described, within the meaning of Section 9(c) 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, it is hereby

DIRECTED, as part of the investigation authorized by the Board, that an election by secret ballot shall be conducted within ten (10) days from the date of this Direction of Election under the direction and supervision of Ralph A. Lind, Regional Director for the Eighth Region, acting in this matter as the agent of the National Labor Relations Board and subject to Article III, Section 9 of said Rules and Regulations, among the production and maintenance employees of the Belmont Stamping & Enameling Company on the payroll of the company on February 8, 1936 excluding clerical employees, foremen and other supervisory employees, and those employees who have resigned or have been discharged for good cause between February 8, 1936 and the date of election, to determine whether or not they desire to be represented for the purposes of collective bargaining by Stamping & Enameling Workers Federal Labor Union No. 18816.

MR. SMITH took no part in the consideration of the above Decision and Direction of Election.

[SAME TITLE]

AMENDED DIRECTION OF ELECTION

March 31, 1936

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, it is hereby

DIRECTED, as part of the investigation authorized by the Board, that an election by secret ballot shall be conducted on April 13, 1936 under the direction and supervision of Ralph A. Lind, Regional Director for the Eighth Region, acting in this matter as the agent of the National Labor Relations Board and subject to Article III, Section 9 of said Rules and Regulations, among the production and maintenance employees of the Belmont Stamping & Enameling Company on the payroll of the company on February 8, 1936 excluding clerical employees, foremen and other supervisory employees, and those employees who have resigned or have been discharged for good cause between February 8, 1936 and the above date of election, to determine whether or not they desire to be represented for the purposes of collective bargaining by Stamping & Enameling Workers Federal Labor Union No. 18816.

[SAME TITLE]

CERTIFICATION OF REPRESENTATIVES

May 6, 1936

A petition for an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, approved July 5, 1935, was filed in November, 1935 with the Regional Director for the Eighth Region by Stamping & Enameling Workers Federal Labor Union No. 18816, said petition alleging that a question affecting commerce had arisen concerning the representation of the employees of the Belmont Stamping & Enameling Company, New Philadelphia, Ohio. The National Labor Relations Board on February 4, 1936, acting pursuant to Section 9 (c) of the Act and Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, authorized the Regional Director for the Eighth Region to conduct an investigation and to provide for an appropriate hearing upon due notice. Pursuant to such authorization, notice of hearing was duly issued and served by the Regional Director and

on February 20, 1936, a hearing was held at New Philadelphia, Ohio, by Saul S. Danaceau, the Trial Examiner designated by the Board.

After said hearing and upon the full record in the case, the National Labor Relations Board issued its Direction of Election dated March 20, 1936, which Direction was thereafter amended on March 31, 1936. Pursuant to the Amended Direction, an election by secret ballot was conducted by the Regional Director on April 11, 1936 among the production and maintenance employees of the Belmont Stamping & Enameling Company on the payroll of the Company on February 8, 1936, excluding clerical employees, foremen and other supervisory employees, said election being held in accordance with Article III, Section 9 of said Rules and Regulations. Thereafter the Regional Director prepared and served upon the parties to the proceeding his Intermediate Report in which he found that a majority of the employees eligible to vote in said election had selected Stamping & Enameling Workers Federal Labor Union No. 18816 to represent them for the purposes of collective bargaining with the Belmont Stamping & Enameling Company.

Now THEREFORE, 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 the National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that Stamping & Enameling Workers Federal Labor Union No. 18816 has been selected by a majority of the production and maintenance employees of the Belmont Stamping & Enameling Company as their representative for the purposes of collective bargaining with said Company, and that pursuant to Section 9 (a) of the Act, Stamping & Enameling Workers Federal Labor Union No. 18816 is the exclusive representative of all such production and maintenance employees for the purposes of collection bargaining with respect to rates of pay, wages, hours of employment and other conditions of employment.