In the Matter of CLARKSVILLE MANUFACTURING COMPANY *and* AMALGAMATED CLOTHING WORKERS OF AMERICA, (C. I. O.)

Case No. 10–R–987.—Decided October 20, 1943

Messrs. Carmack Cochran and *Gordon McKelvey*, of Nashville, Tenn., for the Company.

Messrs. Carl F. Albrecht and *N. C. Riley*, of Nashville, Tenn., for the Amalgamated.

Mr. Dan Ritter, of Dickson, Tenn., for the United.

Miss Frances Lopinsky, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Amalgamated Clothing Workers of America, (C. I. O.), herein called the Amalgamated, alleging that a question affecting commerce had arisen concerning the representation of employees of Clarksville Manufacturing Company, Clarksville, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Dan M. Byrd, Trial Examiner. Said hearing was held at Nashville, Tennessee, on September 21, 1943. The Company, the Amalgamated, and United Garment Workers of America, A. F. of L., herein called the United, appeared and participated. All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded an opportunity to file briefs with the Board.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Clarksville Manufacturing Company is a Tennessee corporation engaged in the manufacture of work clothes at its plant at Clarksville,

Tennessee. The Company's entire output is produced on contract. All raw materials are supplied to it by its customers. During a normal business year, almost 100 percent of the raw materials, consisting of cloth and buttons, is delivered to the Company from points outside the State of Tennessee. During a normal business year, the Company produces finished products amounting to in excess of $50,000, 30 to 40 percent of which is produced for the United States Government. The remaining 60 to 70 percent is produced for civilian contractors. Almost 100 percent of such civilian work is shipped outside the State of Tennessee.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Amalgamated Clothing Workers of America, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.

United Garment Workers of America, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to either union as the exclusive bargaining representative of its employees until one of them has been certified by the Board in an appropriate unit.

A statement of the Field Examiner, introduced into evidence at the hearing, indicates that the Amalgamated and the United each represents a substantial number of employees in the unit hereinafter found appropriate.[1]

We find that a question affecting commerce has arisen concerning the representation of employees of the Company within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

We find, in accordance with the stipulation of the parties, that all production employees of the sewing rooms, cutting and trimming

[1] The Field Examiner reported that the Amalgamated submitted 205 application-for-membership cards, all of which bore apparently genuine original signatures; that the names of 142 persons appearing on the cards were listed on the Company's pay roll of August 31, 1943, which contained the names of 310 employees in the appropriate unit; that the cards were dated in May, June, July, August, and September 1943.

The United submitted 121 application-for-membership cards, all of which bore apparently genuine original signatures The names of 95 persons appearing on the cards were listed on the Company's pay roll of August 31, 1943 The cards were dated in August and September 1943 Thirty-one of the persons whose names appear on the said pay roll, apparently signed cards in both organizations.

rooms, final inspection department, shipping room, and pressing department, excluding bolt boys, the maintenance mechanic, watchmen, office employees and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

V. THE DETERMINATION OF REPRESENTATIVES

In accordance with an agreement in settlement of a charge filed by the Amalgamated against Central Manufacturing Company,[2] predecessor to the Company, the Company has posted notices informing its employees that it intends to comply with the National Labor Relations Act. The Company contends that since it agreed to post the notices for 60 days, no election should be held until late in November 1943, after the 60-day period has expired. The Amalgamated has waived its charges as a basis for protesting the outcome of an election in this proceeding. Under the circumstances, there is no reason to defer holding the election.

We shall direct that the question concerning representation which has arisen be resolved by an election by secret ballot among the employees in the appropriate unit who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

The Company employs learners at irregular intervals when it is necessary to make replacements among its personnel. All of the Company's employees work on a piece-rate basis. However, when learners are first hired, they are paid a minimum of 35 cents an hour for the first 160 hours of employment. At the end of 160 hours they are increased to at least 40 cents an hour irrespective of their piecework production. The percentage of discharges among learners who have worked 160 hours is very low. The Company contends that learners with 160 hours' experience should be entitled to vote. The Amalgamated would require them to have 480 hours' experience, the United would set 6 weeks of employment as the standard. In view of the low percentage of rejections among the Company's learners, we find that learners having 160 hours' experience with the Company are eligible to vote in the election.[3]

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[2] Regional case No. 10–C–1373.

[3] See *Matter of New York Central Iron Works*, 37 N. L R B. 894; *Matter of Northwestern Auto Parts Co.*, 36 N. L. R. B. 484. Cf. *Matter of Swift & Company*, 46 N. L. R. B. 1171.

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 9, of National Labor Relations Board Rules and Regulations—Series 2, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Clarksville Manufacturing Company, Clarksville, Tennessee, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Tenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the employees in the unit found appropriate in Section IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether they desire to be represented by Amalgamated Clothing Workers of America, affiliated with the Congress of Industrial Organizations or by United Garment Workers of America affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.