In the Matter of H. E. HEYMAN, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF DOUBLE DUTY MANUFACTURING COMPANY *and* UNITED GARMENT WORKERS OF AMERICA, LOCAL NO. 240 (AFL)

Case No. 16–R–697.—Decided October 27, 1943

Mr. Emil Corenbleth, of Dallas, Tex., for the Company.

Mesdames Irene Greathouse and *Marie M. Bailey*, of Dallas, Tex., for the Union.

Miss Muriel J. Levor, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon amended petition duly filed by United Garment Workers of America, Local No. 240, (AFL), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of H. E. Heyman, doing business under the firm name and style of Double Duty Manufacturing Company, Dallas, Texas, herein called the Company,[1] the National Labor Relations Board provided for an appropriate hearing upon due notice before Bliss Daffan, Trial Examiner. Said hearing was held at Dallas, Texas, on September 20, 1943. The Company and the Union appeared, participated, and 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 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

H. E. Heyman, doing business as Double Duty Manufacturing Company, is engaged in the manufacture of trousers at his Dallas,

[1] The petition and other formal documents are hereby amended to set forth the name of the Company as above, in accordance with evidence adduced at the hearing.

Texas, plant. The Company's sales for the 6-month period ending June 1943, amounted to approximately $60,000 and the value of the raw materials obtained from the Quartermaster's Depot at Dallas, used during the same period, amounted to approximately $25,000. The Company does not anticipate further contracts with the Army and is now recommencing the manufacture of trousers for private concerns. It estimates that it will use raw materials valued at approximately $36,000 annually, all of which will be shipped from points outside the State of Texas. Substantially all of the finished products which the Company expects to manufacture will be sold within the State of Texas.

Upon these facts we find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.[2]

II. THE ORGANIZATION INVOLVED

United Garment Workers of America, Local No. 240, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about August 11, 1943, representatives of the Union asserted the Union's claim to represent a majority of the Company's employees and requested the Company to commence collective bargaining negotiations with it. Mr. H. E. Heyman indicated his unwillingness to recognize the Union as the bargaining representative of the Company's employees. He confirmed his refusal at the hearing.

A statement of the Field Examiner, introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.[3]

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

In substantial accordance with the agreement of the parties we find that all production and maintenance employees of the Company at its Dallas, Texas, plant, including those who incidentally perform some cleaning duties and excluding clerical employees, the forelady,

[2] *N. L. R. B* v *Fainblatt*, 306 U. S. 601; *N. L. R. B. v Kudile, et al*, 130 F. (2d) 615 (C. C. A. 3), cert denied, 317 U. S. 694; *N. L. R. B* v. *Suburban Lumber Co.*, 121 F. (2d) 829 (C. C. A. 3), cert. denied, 314 U. S. 693. See also *Matter of Cowell Portland Cement Company*, 40 N. L. R. B. 652, 697 ff.

[3] The Field Examiner reported that the Union submitted 48 designations, of which 20, bearing apparently genuine original signatures, correspond with names on the Company's pay roll of August 25, 1943, which contains 56 names.

and any other 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

We shall direct that the question concerning representation which has arisen be resolved by means of 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 our Direction of Election herein, subject to the limitations and additions set forth in the Direction.

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 H. E. Heyman, doing business under the firm name and style of Double Duty Manufacturing Company, Dallas, Texas, 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 Sixteenth 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 who have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by United Garment Workers of America, Local No. 240, affiliated with the American Federation of Labor, for the purposes of collective bargaining.

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