

In the Matter of CHARLES H. BACON & COMPANY *and* AMERICAN FEDERATION OF HOSIERY WORKERS (C. I. O.)

Case No. 10-R-984.—Decided October 30, 1943

Mr. Thomas G. McConnell, of Knoxville, Tenn., for the Company.

Mr. H. G. B. King, of Chattanooga, Tenn., for the Union.

Mr. A. Sumner Lawrence, of counsel to the Board.

DECISION
AND
ORDER

STATEMENT OF THE CASE

Upon amended petition duly filed by American Federation of Hosiery Workers (C. I. O.), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Charles H. Bacon & Company, Lenoir City, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Paul S. Kuelthau, Trial Examiner. Said hearing was held at Knoxville, Tennessee, on September 2, 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 an opportunity of filing 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

Charles H. Bacon & Company, a Delaware corporation, has its principal place of business at Loudon, Tennessee and is engaged in the manufacture of hosiery and yarns. In addition to its hosiery mill at Loudon, the Company also operates a hosiery and spinning mill, respectively, at Lenoir City, Tennessee, which latter are the only

plants involved in the present proceeding. During the year 1942, the Company used at its Tennessee plants cotton yarn valued at \$392,235, rayon valued at \$515,133 and dyes and chemicals valued at \$69,688. Of these materials, approximately 50 percent of the cotton yarn, all of the rayon, and 50 percent of the dyes and chemicals, were obtained from sources outside the State of Tennessee. The Company's annual sales of finished products amount to approximately \$5,000,000, of which 90 percent is sold and shipped to points in States other than the State of Tennessee.

II. THE ORGANIZATION INVOLVED

American Federation of Hosiery Workers is a labor organization, affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE ALLEGED APPROPRIATE UNIT

The Union urges that the appropriate unit should consist of all production employees of the Company's spinning mill at Lenoir City, Tennessee, including sweepers and janitors, warehouse and warp room employees, but excluding overseers and foremen, timekeepers, shipping clerks, clerical and office employees, watchmen, truck drivers, and machine shop and maintenance employees. The Company, on the other hand, contends that the unit should be company-wide or at least include the employees of the hosiery mill situated in Lenoir City and adjacent to the spinning mill.¹

The evidence reveals that the mills in Lenoir City are separated by a public street approximately 50 feet wide. Although each mill has a separate foreman, there is a common general superintendent who sets the wages in both mills and decides all the labor policies of the Company. The function of the hosiery mill complements that of the spinning mill which supplies the yarn required for the operation of both the hosiery mill in Lenoir City and the full-fashioned hosiery mill at Loudon, Tennessee. While there is a difference in operations between the spinning mill and the hosiery mill, there is substantially no difference between the training and skill of an operator in the spinning mill as compared with that of a hosiery mill operator.² Transfers of employees, though not freely made between the spinning and hosiery mills, do on occasion take place upon the request of individual employees and with the consent of each of the foremen concerned. The employees of both mills live in the same

¹ In addition to the two mills at Lenoir City the Company operates a full-fashioned hosiery mill at Loudon, Tennessee, a distance of 6 miles from Lenoir City.

² The full-fashioned hosiery mill at Loudon is an exception to the above statement.

community, have opportunity to meet together and associate with one another without any distinction as to the mill in which they work. Both the employees of the hosiery mill and those of the spinning mill are eligible to membership in the union local and the latter admits that for years it has been, and intends to continue, organizing the hosiery mill employees and has apparently made substantial progress in this respect.³

Under the circumstances, including the fact that the Union is at present organizing employees having substantial interests in common with the employees which it seeks to represent, we find that the unit claimed by the Union is inappropriate for collective bargaining, and shall dismiss without prejudice the petition of the Union filed herein.⁴

IV. THE ALLEGED QUESTION CONCERNING REPRESENTATION

Since the bargaining unit sought to be established by the amended petition is inappropriate, as stated in Section III, above, we find that no question has arisen concerning the representation of employees of the Company, within the meaning of Section 9 (c) of the National Labor Relations Act.

ORDER

Upon the basis of the above findings of fact and the entire record in the case, the Board hereby orders that the petition as amended, for investigation and certification of employees of Charles H. Bacon & Company, Lenoir City, Tennessee, filed by American Federation of Hosiery Workers (CIO), be, and it hereby is, dismissed.

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

³ While no membership figures for the hosiery mill are afforded by the Union, a witness for the Union testified that he understood that the hosiery mill employees were just about organized and that the Union had signed up about 100 percent of such employees.

⁴ See *Matter of Metal Office Furniture Company*, 51 N. L. R. B. 993; also *Matter of Fickett Brown Manufacturing Company*, 51 N. L. R. B. 34 and cases cited therein.