

In the Matter of SEYMOUR WOOLEN MILLS and LOCAL UNION No. 11,
UNITED TEXTILE WORKERS OF AMERICA, A. F. OF L.

Case No. 9-R-1207.—Decided October 30, 1943

Mr. Paul Y. Davis, of Indianapolis, Ind., for the Company.

Mr. John O. McGlashan, of Baraboo, Wis., for the Union.

Mr. Joseph W. Kulkis, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a first amended petition filed by Local Union No. 11, United Textile Workers of America, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Seymour Woolen Mills, Seymour, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Benjamin E. Cook, Trial Examiner. Said hearing was held at Brownstown, Indiana, on October 8, 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

Seymour Woolen Mills is an Indiana corporation operating a plant in Seymour, Indiana, where it is engaged in the manufacture of woolen goods, blankets, flannels, and piece goods. The principal raw materials used at its plant are raw wools in both grease and scoured state. The Company annually purchases over 1 million dollars worth of raw

materials, approximately 85 percent of which is shipped to its plant from points outside the State of Indiana. The annual value of finished products sold by the Company exceeds 2 million dollars, of which approximately 95 percent is shipped to points outside the State of Indiana. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Local Union No. 11, United Textile Workers of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

In August 1943, the Union requested the Company to recognize it as the exclusive bargaining representative of the employees within an alleged appropriate unit. The Company refuses to accord the Union such recognition unless and until the Union is certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees within the unit hereinafter found to be 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

The parties agree that all production and maintenance employees of the Company, excluding foremen, assistant foremen, office and clerical employees, plant protection employees, leadmen 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 an appropriate unit. The Company contends, however, that Granville Murphy, a leadman, is not a supervisory employee. It is clear from the record that Murphy, although he receives more per hour than any of the other workers because of his extensive experience and, on one occasion, directed the work of employees during a week's absence of the foreman, does not have the authority to make recommendations as to changes in status of employees. We shall, therefore, include him in the unit.

¹The report of the Field Examiner shows that the Union submitted 149 membership cards bearing apparently genuine signatures of 130 persons whose names appear on the September 11, 1943, pay roll of the Company, which contains the names of 232 persons within the alleged appropriate unit.

We find that all production and maintenance employees of the Company, excluding office and clerical employees, plant protection employees, foremen, assistant foremen, leadmen (with the exception of Murphy), and all other supervisory employees with authority to hire, promote, 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 the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

A question was raised at the hearing concerning the voting status of employees who voluntarily applied for and were inducted into military service or training, without first securing a leave of absence in accordance with the policy of the Company. Under the Service Extension Act of August 18, 1941, Public Law 213, Section (7), persons who, subsequent to May 1, 1940, have entered upon active duty in the land or naval forces either by voluntary enlistment or otherwise, are entitled to the same reemployment benefits as persons inducted under the Selective Training and Service Act. Section 9 (c) of the Selective Training and Service Act provides that any person, who is restored to a position in accordance with the provision of the Act, shall be considered as having been on a furlough or leave of absence during the period of training and service in the land or naval forces. We find that the employees in question are within the contemplation of the Direction and shall be eligible to vote, subject to the limitation 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 Seymour Woolen Mills, Seymour, Indiana, 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 Ninth 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 any persons who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of election, to determine whether or not they desire to be represented by Local Union No. 11, United Textile Workers of America, A. F. of L., for the purposes of collective bargaining.

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