

IN THE MATTER OF ELITE LAUNDRY COMPANY OF WASHINGTON, D. C., INC.,
and CLEANERS & LAUNDRY WORKERS UNION, LOCAL 188 B, AMAL-
GAMATED CLOTHING WORKERS OF AMERICA

Case No. 5-R-1396.—Decided December 7, 1943

Mr. George L. Weasler, for the Board.

Messrs. Louis A. Spiess and Joseph C. McGarraghy, of Washington, D. C., for the Company.

Mr. Alfred Udoff, of New York City, and *Messrs. Ralph Bernard and Jack Kutner*, of Washington, D. C., for the Union.

Miss Frances Lopinsky, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Cleaners & Laundry Workers Union, Local 188 B, Amalgamated Clothing Workers of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Elite Laundry Company of Washington, D. C., Inc.,¹ herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before William Strong, Trial Examiner. Said hearing was held at Washington, D. C., on October 29, 1943. The Board, the Company and the Union appeared and participated.² All parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues.

At the hearing the Company moved the dismissal of the petition on the ground that the Union had not made a majority showing on cards submitted to the Field Examiner. On November 11, 1943, the Company requested the right to present oral argument to the Board on the motion. As the Union submitted a sufficient number of apparently genuine cards to indicate that it represents a substantial number of the employees of the Company, the motion and request for oral argument thereon are hereby denied.³

¹ At the hearing, by stipulation of the parties, the pleadings were amended to correspond with this, the correct corporate name

² Teamsters Joint Council No. 55, also served with notice, did not appear

³ See *Matter of James Doak Jr Company*, 52 N. L. R. B. No. 55; *Matter of Smith & Caffrey Co.*, 38 N. L. R. B. 90

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

Elite Laundry Company of Washington, D. C., Inc., is a Virginia corporation engaged in the general dry cleaning and laundry business in the District of Columbia. In connection with its operations, it maintains a plant at 2117 Fourteenth Street, N. W., Washington, D. C., and operates 17 stores or outlets, 3 being in Virginia, 2 in Maryland, and 12 in the District of Columbia. The laundry and dry cleaning is picked up at the above stores, and at the homes or business establishments of customers by company trucks and taken to the plant where it is washed and dry cleaned and returned to the stores or customers on the trucks. Approximately 10 percent of the total gross income of the Company comes from the Virginia and Maryland stores.

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

II. THE ORGANIZATION INVOLVED

Cleaners and Laundry Workers Union, Local 188 B, Amalgamated Clothing Workers of America affiliated with the Congress of Industrial Organizations is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its employees until the Union 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 Union represents a substantial number of employees in the unit hereinafter found appropriate.⁴

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.

⁴The Field Examiner reported that the Union submitted 261 application for membership cards all of which bore apparently genuine original signatures; that the names of 159 persons appearing on the cards were listed on the Company's pay roll of September 23, 1943, which contained the names of 355 employees in the appropriate unit; that the cards were dated 2 in February 1943, 1 in June 1943, 57 in July 1943, 140 in August 1943, 46 in September 1943, 15 undated.

IV. THE APPROPRIATE UNIT

The Union and the Company agree that the unit should include all production and maintenance employees of the Company, and should exclude all office and clerical employees and supervisory employees. The Company desires the inclusion and the Union the exclusion of truck drivers and helpers, and store clerks.

Truck drivers and helpers: The Union's petition requested the inclusion of truck drivers but subsequent to the filing of the petition, the Union was informed that the Teamsters Joint Council of American Federation of Labor was interested in organizing the Company's truck drivers and helpers in a separate unit. To avoid an inter-union dispute, the Union at the hearing requested exclusion of the truck drivers from the general maintenance-production unit.

There are 55 truck drivers and helpers. They pick up soiled articles at the homes or places of business of customers, and at the Company's stores where the articles are deposited and called for by the general public; they deliver clean articles to the customers and stores. Truck drivers are paid on a commission basis and when they have the time and opportunity, they solicit new business for the Company. They are responsible for the charges of and make collections from the customers who have no charge accounts with the Company. None of the production and maintenance workers perform tasks similar to those performed by the drivers and their helpers. The production and maintenance employees perform their duties inside the plant; the drivers and helpers work on the outside. Inasmuch as the duties, working conditions and interests of the truck drivers and helpers and those of maintenance and production employees are dissimilar, and since there is another labor organization in the area which is interested in organizing the truck drivers and helpers into a separate unit, we shall exclude the truck drivers and helpers from the unit.

The store clerks: The Company has 17 stores at which customers may leave and call for their articles which are laundered and dry cleaned by the Company. Each store has 2, sometimes 3 clerks. They take in the articles brought by the customers, prepare and issue receipts for them, attach some identifying insignia to each article, quote prices for work, issue laundered and cleaned articles, collect for services rendered, handle money and make change. There is no interchange of employees between the plant and the stores. The educational requirements for store employees are higher than those for plant employees. They work with only intermittent supervision. Their duties and interests are more allied with those of clerical employees than with those of production and maintenance employees.⁵ We shall exclude them from the unit.

⁵ See *Matter of National Laundry Co.*, 36 N. L. R. B. 1204.

We find that all maintenance and production employees of the Company, excluding truck drivers and helpers, store clerks 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

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.

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 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Elite Laundry Company of Washington, D. C., Inc., 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 Fifth 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 or not they desire to be represented by Cleaners and Laundry Workers Union, Local 188 B, Amalgamated Clothing Workers of America, C. I. O., for the purposes of collective bargaining.