

In the Matter of ILLINOIS KNITTING COMPANY and AMERICAN
FEDERATION OF HOSIERY WORKERS, CIO

Case No. 14-R-799.—Decided December 7, 1943

Mr. J. H. Gilbert, of Mt. Vernon, Ill., for the Company.

Mr. John Banachowicz, of Milwaukee, Wis., for the Union.

Mr. David V. Easton, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by American Federation of Hosiery Workers, CIO, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Illinois Knitting Company, Mt. Vernon, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Harry G. Carlson, Trial Examiner. Said hearing was held at Mt. Vernon, Illinois, on November 13, 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 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

Illinois Knitting Company, an Illinois corporation, is engaged in the production and sale of hosiery. In the course and conduct of its business it operates a central office and manufacturing plant at Mt. Vernon, Illinois, and a sales office in New York City. We are concerned herein with its Mt. Vernon manufacturing plant. During the calendar year 1942 the Company purchased raw materials for

use at its manufacturing plant exceeding \$300,000 in value, of which approximately 70 percent was shipped to the plant from points outside the State of Illinois. During the same period sales of the Company's finished products exceeded \$400,000, of which 70 percent was shipped by the Company to purchasers located at points outside the State of Illinois. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

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 QUESTION CONCERNING REPRESENTATION

By letter dated October 12, 1943, the Union requested recognition by the Company as the bargaining representative of its employees. The Company replied by letter dated November 5, 1943, refusing to recognize the union herein inasmuch as the Board had certified another union as the representative of its employees. The record indicates that although Federal Labor Union No. 21025, affiliated with the American Federation of Labor, was previously certified by the Board as the result of a consent election, it no longer has any interest among the employees involved herein. We find that the prior certification does not constitute a bar to the proceeding herein.

Statements of the Regional Director and the Trial Examiner, introduced into evidence at the hearing, indicate that the Union 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

The Union contends that the appropriate unit should consist of all production and maintenance employees of the Company, including fixers and non-militarized watchmen, but excluding foremen, assistant foremen, office and clerical employees. The Company agrees generally

¹ The Regional Director reported that the Union submitted 98 designations, of which 90 bore apparently genuine original signatures and contained the names of persons whose names appear upon the Company's pay roll of October 8, 1943; that said pay roll contained the names of 160 persons

The Trial Examiner reported that the Union submitted at the hearing 15 additional designations, of which 10 bore apparently genuine original signatures and contained names appearing upon the afore-mentioned pay roll

with the foregoing unit, but contends that fixers and watchmen should be excluded therefrom.

Watchmen. The Company employs four non-militarized watchmen, who perform the duties usual to this classification, and also fire the boilers and perform other janitorial work. The Union has customarily represented such employees in an industrial unit of production and maintenance employees, and no valid reason is disclosed in the record for their exclusion. Accordingly, we shall include the non-militarized watchmen within the unit.²

Fixers. The record indicates that the Company employs between six and eight persons known as fixers, whom it seeks to exclude from the unit on the ground that they give instructions to new operators and are thus more closely allied with management than with the rank and file production and maintenance employees. These employees set up, adjust, and repair the machines used by the Company in its manufacturing processes. Although they draw higher hourly rates of pay than the ordinary production worker, this pay is predicated upon their greater skill and not upon any exercise of supervisory authority. In view of the foregoing circumstances, we are of the opinion that these employees are properly included within the unit.³

We find that all production and maintenance employees of the Company, including non-militarized watchmen and firemen and fixers, but excluding office and factory clerical employees, militarized guards, foremen, assistant foremen, and all 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 an election by secret ballot among the employees in the appropriate unit who were employed during the payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.⁴

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

² See *Matter of George B. Lambert & Co.*, 51 N. L. R. B. 591; *Matter of Nebraska Power Company*, 46 N. L. R. B. 601; *Matter of Hamrick Mills*, 44 N. L. R. B. 238

³ See *Matter of P. H. Hanes Knitting Company*, 52 N. L. R. B. 746.

⁴ The Union requests that it be designated on the ballot as "The American Federation of Hosiery Workers, CIO." This request is hereby granted.

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 Illinois Knitting Company, Mt. Vernon, Illinois, 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 Fourteenth 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 The American Federation of Hosiery Workers, CIO, for the purposes of collective bargaining.

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