

In the Matter of MANHATTAN COMPANY *and* CLEANERS & LAUNDRY WORKERS UNION, LOCAL 188-B, AMALGAMATED CLOTHING WORKERS OF AMERICA

*Case No. 5-R-1404.—Decided December 15, 1943*

*Mr. George L. Weasler*, for the Board.

*Mr. Louis A. Spiess*, of Washington, D. C., for the Company.

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

*Mr. David V. Easton*, 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 Manhattan Company, Washington, D. C., herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Bernard Cushman, Trial Examiner. Said hearing was held at Washington, D. C., on November 15, 1943. The Company and the Union appeared,<sup>1</sup> participated, and 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 herein on the ground that the Union had not made a majority showing on cards submitted to the Field Examiner. Said motion was reserved by the Trial Examiner for the Board. For reasons hereinafter stated, the motion is hereby denied. 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.

<sup>1</sup> Teamsters Joint Council, No. 55, although served with notice of the proceeding herein, made no appearance.

Upon the entire record in the case, the Board makes the following:

### FINDINGS OF FACT

#### I. THE BUSINESS OF THE COMPANY

Manhattan Company, a District of Columbia corporation, is engaged in a general laundry business. For this purpose it maintains a plant located in Washington, D. C., and operates stores in the District of Columbia and the State of Virginia. We are concerned herein with its Washington plant. During the month of October 1943, the Company did a gross business of approximately \$80,000, \$2,800 of which was derived from its Virginia outlet. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATION INVOLVED

Cleaners & Laundry Workers Union, Local 188-B, Amalgamated Clothing Workers of America, 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 August 25, 1943, the Union requested recognition from the Company as the collective bargaining representative of certain of its employees. The Company refused such recognition unless and until the Union received certification by the Board.

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.<sup>2</sup>

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 seeks to represent a unit comprised of all plant production and maintenance employees, excluding truck drivers and

<sup>2</sup> The Field Examiner reported that the Union submitted 139 designations, of which 99 bore apparently genuine original signatures and contained names of persons appearing upon the Company's pay roll for the week ending October 2, 1943. The record indicates that the Company employs approximately 340 persons in the appropriate unit.

As noted above, the Company moved to dismiss the petition of the Union; this motion was based upon the contention that the Union failed to make a substantial showing. However, we have taken into consideration the fact that the record in this case indicates an abnormally high labor turnover of employees of the Company, and under these circumstances we are of the opinion that the showing made by the Union is sufficient for the purposes of this proceeding. See *Matter of Douglas Aircraft Company, Inc.*, 49 N. L. R. B. 819

helpers, clerical and supervisory employees, call office girls, driver-bundle boys, the engineer, and the assistant engineer. The Company agrees generally with the foregoing unit but contends that truck drivers and helpers, call office girls, driver-bundle boys, and the assistant engineer should be included therein.

*Truck drivers and helpers.* The drivers pick up and deliver laundry and dry cleaning work and collect funds paid for such work. The helpers assist the drivers in making their rounds and occasionally fulfill their duties in their absence. The drivers received a weekly salary plus commission, and the helpers are paid a weekly salary only. Both classifications are included within the sales department of the Company, whereas the regular production and maintenance employees, who are hourly paid, are under the supervision of the plant superintendent. In view of the foregoing, and since it appears that the Union no longer accepts drivers for membership,<sup>3</sup> we are of the opinion that the truck drivers and their helpers should be excluded from the unit.<sup>4</sup>

*Call office girls.* The Company employs two persons in this classification who work at an office in the plant to which customers may bring and receive laundry on a cash and carry basis. These employees are hourly paid. However, we are of the opinion that their duties are comparable to store clerks rather than to the production and maintenance employees, and for this reason, we shall exclude them from the unit.<sup>5</sup>

*Driver bundle boy.* The Company employs one individual in this capacity who spends 50 percent of his time making deliveries by truck and the remainder in taking bundles from chutes and placing them in bins from which drivers make their pick-ups for delivering. Although the Union seeks to include within the unit all other bundle boys, it contends that the interests of this employee are more akin to those of the truck drivers. Since the bundle boy in question spends such a substantial portion of his time performing the duties of a driver, and in view of our prior finding with respect to drivers, we shall exclude this employee from the unit but shall include all full-time bundle boys therein.

*Assistant engineer.* This employee is the immediate subordinate of the engineer and, in the latter's absence, supervises the maintenance employees and has authority on these occasions to hire and discharge them. Under these circumstances, we are of the opinion that he occupies a supervisory status. We shall, therefore, exclude him.

<sup>3</sup> Although the Union had formerly accepted drivers for membership, pursuant to an agreement with the Teamsters Joint Council of the American Federation of Labor, it has relinquished its claim to jurisdiction over such employees.

<sup>4</sup> *Matter of Elite Laundry Company of Washington, D. C., Inc.*, Case No 5-R-1396, issued December 7, 1943, 53 N. L. R. B., No. 219.

<sup>5</sup> *Matter of Kent Stores of Washington, Inc.*, 53 N. L. R. B. 915.

We find that all production and maintenance employees of the Company at its Washington plant, excluding truck drivers and helpers, the engineer and the assistant engineer, call office girls, driver-bundle boy, clerical employees, 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, and subject to the limitations and additions set forth in the Direction.<sup>6</sup>

#### 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 Manhattan Company, Washington, D. C., 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 & Laundry Workers Union, Local 188-B, A. C. W. A., 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.

<sup>6</sup> The Union made a request that it be designated upon the ballot as "Cleaners & Laundry Workers Union, Local 188-B, A. C. W. A., CIO." This request is hereby granted.