

In the Matter of HORNER WOOLEN MILLS COMPANY and LOCAL UNION
No. 60, UNITED TEXTILE WORKERS OF AMERICA, A. F. L.

Case No. 7-R-1611.—Decided January 7, 1944

Mr. Charles F. Cummins, of Lansing, Mich., for the Company.

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

Mr. Joseph E. Gubbins, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Local Union No. 60, United Textile Workers of America, affiliated with the A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Horner Woolen Mills Company, Eaton Rapids, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Sylvester J. Phenev, Trial Examiner. Said hearing was held at Lansing, Michigan, on November 23, 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. At the hearing the Company moved to dismiss the petition on the ground that the international organization of the United Textile Workers of America, rather than Local 60 would be the actual bargaining representative of the Company's employees in the event the Board certified Local 60. The Trial Examiner reserved ruling for the Board. We find the contention to be without merit and the motion is hereby denied. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. The parties were afforded opportunity to file briefs with the Board.

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

54 N. L. R. B., No. 56.

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Horner Woolen Mills Company is a Michigan corporation, having its principal place of business at Eaton Rapids, Michigan, where it is engaged in the manufacture of woolen fabrics, blankets, and yarn. During the first 6 months of 1943, the Company purchased raw materials valued in excess of \$900,000, all of which was shipped to its plant from points outside the State of Michigan. During the same period, the Company sold finished products valued in excess of \$1,300,000, approximately 96 percent of which was shipped to points outside the State of Michigan. The Company admits that it is subject to the jurisdiction of the Board for the purposes of this proceeding.

II. THE ORGANIZATION INVOLVED

Local Union No. 60, United Textile Workers of America, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On September 14, 1943, the Union requested recognition from the Company as the exclusive bargaining representative of the Company's employees. On October 12, 1943, the Company notified the Union that it would not accord such recognition unless and until the Union was certified by the Board.

A statement of the Regional Director introduced in evidence at the hearing, indicates that the Union represents a substantial number of employees in 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 National Labor Relations Act.

IV. THE APPROPRIATE UNIT

The Union seeks a unit composed of all employees of the Company who are engaged in any production or maintenance work or service in processing and manufacturing textile products, excluding executives, supervisory employees, and all employees of the administrative office, store, (tool) room, and sales room. The Company does not oppose generally the extent of the unit sought by the Union but does contend

¹The Regional Director reported that the Union submitted 103 membership cards dated in August, September, and October 1943. All the cards bear apparently genuine signatures and names of persons whose names are listed on the Company's pay roll of November 10, 1943; there are approximately 200 employees in the appropriate unit.

that certain employees whom the Union desires to include in the unit should be excluded.

The first employee in dispute, Raymond Hayden, is classified as a watchman and fireman. The Company employs four watchmen and three watchmen-firemen, all of whom, with the exception of Hayden, have been sworn in as members of the auxiliary military police; the parties are in agreement as to the exclusion of the four watchmen and the other two watchmen-firemen from the unit. The record reveals that Hayden has duties similar in nature to the other two watchmen-firemen and that he will be sworn in as a member of the auxiliary military police in the near future. Under the circumstances, and in accordance with our usual policy with respect to members of the auxiliary military police, we shall exclude from the unit all militarized watchmen and watchmen-firemen, including Hayden.

The second employee in dispute, Herbert Walz, is classified as a yarn weigher in the mule spinning department. The Company contends that Walz is an administrative employee and, therefore, should be excluded from the unit. The duties of this employee consist of weighing and recording the amount of processed yarn; the records made by him are normally used, in part, for the determination of piece-work rates. However, the present hourly rates are higher than the piece-work rates normally computed from the records kept by Walz and consequently such records are not now determinative of the income of spinners. Under these circumstances, we are of the opinion that the duties and interests of this employee do not warrant his exclusion from a unit of production employees; we shall include him.

The last employee in dispute, Vera Powers, is classified as a record keeper in the bobbin winding department; the Company also contends that she is an administrative employee. Her duties consist of recording the number of pounds of yarn wound by the bobbin-winders, and the number of yards of cloth knitted by the knitter; these latter employees are paid piece-work rates which are based upon the records compiled by Powers. Since the duties of this employee are similar in nature to those of a counter or time checker, and in accordance with our customary policy, we shall exclude her from the unit.²

We find that all production and maintenance employees of the Company at its Eaton Rapids plant, including the yarn weigher, but excluding the record keeper, all watchmen and all watchmen-firemen, second hands, storekeeper, and all other supervisory employees with authority to hire, promote, discharge, discipline, or otherwise

² See *Matter of Bendix Aviation Corporation (Philadelphia Division)*, 53 N. L. R. B. 864, and cases cited therein.

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.³

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,⁴ 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 Horner Woolen Mills Company, Eaton Rapids, Michigan, 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 Seventh 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 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 Local Union No. 60, United Textile Workers of America, A. F. L., for the purposes of collective bargaining.

³ The record reveals that second hands are supervisory employees and that the parties are in agreement as to their exclusion from the unit. The storekeeper is the employee meant to be excluded by the words "store (tool) room employee" found in the petition.

⁴ The Union alleges that several employees were temporarily laid off on or about September 7, 1943, and requests the Board to have eligibility to vote determined by the pay-roll period immediately preceding that date. Since it appears that these employees actually quit the employ of the Company, we find that they are not eligible to vote in the election hereinafter directed.