

In the Matter of REAL SILK HOSIERY MILLS, INC. and AMERICAN
FEDERATION OF HOSIERY WORKERS

Case No. 10-R-1051.—Decided January 7, 1944

Mr. J. L. Mueller, of Indianapolis, Ind., for the Company.

Mr. Matthew Lynch, of Chattanooga, Tenn., for the Union.

Mr. Wallace E. Royster, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a 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 certain employees of Real Silk Hosiery Mills, Inc., Dalton, Georgia, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Charles W. Schneider, Trial Examiner. Said hearing was held at Dalton, Georgia, on November 22, 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

Real Silk Hosiery Mills, Inc. is an Illinois corporation engaged in the manufacture of hosiery and certain ordnance and pyrotechnic material for the United States Government. The principal office of the Company is in Indianapolis, Indiana. We are concerned here with certain of the employees of the Company working in its plant at Dalton, Georgia. At this plant, the Company purchases annually raw

materials of a value in excess of \$500,000, of which 90 percent is shipped to the Company from points outside Georgia. The production of the Dalton plant has an annual value in excess of \$1,000,000, of which 95 percent is shipped to points outside Georgia. The Company concedes and we find, 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 Textile Workers' Union of America, an affiliate of the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

It was stipulated at the hearing that on November 2, 1943, the Union notified the Company that it represented a majority of the employees working in the War Contracts Department and requested recognition as bargaining representative for those employees. The Company declined to extend such recognition unless or until the Union is certified as such bargaining representative 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.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 Company's plant at Dalton is divided into 3 production departments, Full Fashioned, Seamless, and War Contracts, and a maintenance department. Each of the production departments is distinct from the others in product, pay roll and supervision, and the process of manufacture in each is complete and independent. The Maintenance Department is composed of watchmen, truck drivers, electricians, pipe fitters, sweepers, etc., and operates to service the production departments. The history of bargaining at the plant is confined to the 90 employees in the Full Fashioned department, who have been represented by the Union since 1939 under a contract which expires August 31, 1944. The employees in the Seamless department, also

¹ The Field Examiner stated that the Union submitted 229 designations of which 185 bore apparently genuine original signatures. The designations were dated variously from March to November 1943 with a large majority bearing dates in September and October. One hundred and eighty-five designations bear names appearing on the Company's pay roll of November 7, 1943. There are approximately 316 employees in the appropriate unit.

about 90 in number, appear to be unorganized and the Union claims no membership among them. By its petition in this proceeding the Union seeks the establishment of a bargaining unit among the employees in the War Contracts department. This department is engaged in the production of fragmentation bomb parachutes for the War Department. Most of the 316 employees there are employed on piece-work and their earnings appear to be higher than those of the employees in the other departments. Although it appears probable that employees in the other production departments may possess similar skills, the record does not so state nor is there evidence of substantial transfer of employees among the departments. We have frequently approved bargaining units confined to the employees in a single department of a plant upon a showing that such employees constituted a well-defined functional group and that the extent of effective union organization has been confined to such group.² Applying these criteria to the employees in the War Contracts department and considering the development of collective bargaining in the plant on a departmental basis, we are persuaded and find that the employees in the War Contracts department may alone constitute an appropriate bargaining unit at the present time.

At the hearing, the Union requested the inclusion of maintenance employees in the unit. There are 15 such employees whose duties and functions we have described above. They are not peculiarly identified with the War Contracts department; indeed, testimony at the hearing indicates that most of their duties are performed in the other production departments. It is customary to include maintenance employees with production employees in a plant-wide industrial unit or under some circumstances to permit them to constitute alone a separate bargaining unit. In the case before us, however, we agree with the contention of the Company that maintenance employees should not be included in a production unit confined to one department of the plant. Under other circumstances, the maintenance employees might alone constitute a separate bargaining unit but no labor organization is here requesting such a unit nor has the Union made a showing of membership among the maintenance employees sufficiently substantial to warrant the conduct of an election in that group.

All parties agree to the inclusion of the 28 inspectors in the War Contracts department. Since the inspectors possess no supervisory authority and their sole function is to inspect finished work for defects, we shall include them in the unit. The Company would exclude the 8 instructors. These employees are not production workers but, as their designation implies, lead and teach employees in the intricacies of the operations in the department. O. C. Alley, plant manager,

² *Matter of Brandon Corporation, Main Plant*, 44 N. L. R. B. 331; *Matter of Woodside Cotton Mills*, 48 N. L. R. B. 518

testified that instructors have no authority to hire, discharge, or to recommend such action. From other testimony in the record, it appears that instructors are not regarded as supervisors by the employees and that their recommendations alone are not sufficient to warrant disciplinary action but may at the most serve to initiate an investigation. We shall include instructors in the bargaining unit. Accordingly, we find that all employees of the Company in the War Contracts department, including instructors and inspectors, but excluding clerical workers, maintenance employees, foreladies, and all supervisors 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 therein.

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 Real Silk Hosiery Mills, Inc., Dalton, Georgia, 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 Tenth 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 American Federation of Hosiery Workers; CIO, for the purposes of collective bargaining.