

In the Matter of THE J. L. HUDSON COMPANY and UNITED RETAIL,
WHOLESALE AND DEPARTMENT STORE EMPLOYEES OF AMERICA, C. I. O.

Case No. 7-R-1567.—Decided January 20, 1944

Beaumont, Smith & Harris, by Mr. Albert E. Meder, of Detroit, Mich., for the Company.

Mr. Tucker P. Smith, of Detroit, Mich., for the Union.

Mr. Glenn L. Moller, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon a petition duly filed by United Retail, Wholesale and Department Store Employees of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The J. L. Hudson Company, Detroit, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Sylvester J. Pheny, Trial Examiner. Said hearing was held at Detroit, Michigan, on November 29, 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

The J. L. Hudson Company is a Michigan corporation with its principal office and place of business in Detroit, Michigan, where it operates one of the largest department stores in the world, buying and selling a wide variety of merchandise and services for public con-

sumption. During the fiscal year ending January 1, 1942, the Company purchased goods at a cost of approximately \$43,000,000, more than 80 percent of which goods was shipped to the Company's Detroit store from points outside the State of Michigan. During the same period, the Company sold goods valued in excess of \$71,000,000, of which goods 1.6 percent was shipped to points outside the State of Michigan.

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

II. THE ORGANIZATION INVOLVED

United Retail, Wholesale and Department Store Employees of America, affiliated with the Congress of Industrial Organization, is a labor organization admitting to membership employees of the Company.

III. THE ALLEGED QUESTION CONCERNING REPRESENTATION IN AN APPROPRIATE BARGAINING UNIT

The Union seeks to establish two separate appropriate units, consisting, respectively, of all shift and maintenance engineers and all plumbers and steamfitters, excluding supervisory employees. The Company contends that only a store-wide unit is appropriate and that in no event should a unit be established which is less than department-wide in scope.

The Union began its organizational activity among the Company's employees in 1941. On April 24, 1942, a petition was filed by an American Federation of Labor local, seeking a craft unit of upholsterers. This petition was withdrawn, however, and no subsequent petition was ever filed by the A. F. of L. union. On October 12, 1942, the Union filed with the Board a petition for investigation and certification in a unit of truck drivers and helpers. A hearing was held and the proposed unit was found appropriate.¹ An election followed in which the Union failed to obtain a majority of the votes cast. On February 18, 1943, the Union filed a petition for a unit consisting of the employees in the Cabinet and Finishing Department No. 20090. Over the Company's objection that Department No. 20090 was not a functional department but merely an accounting designation, the Board found that the employees in that department constitute a clearly identifiable, homogeneous unit, appropriate for the purposes of collective bargaining.² By the time of the hearing in the instant proceeding, the Union had requested recognition as bargaining repre-

¹ 46 N. L. R. B. 225.

² 49 N. L. R. B. 273.

sentative of the elevator operators in the Company's employ. It appears from these facts that the Union desires eventually to organize and represent the Company's employees on a store-wide basis, but that currently, as in this case, it is seeking certification as the representative of sundry smaller groups of employees because of the limited scope of its effective organizational efforts. Since no other labor organization is attempting to bargain for the employees in a broader unit, we conclude that the Union's failure to propose the optimum store-wide unit is not, in and of itself, fatal to its present petition. In order to make collective bargaining a present possibility for employees who have evinced a desire for representation, we have frequently found appropriate units more restricted in scope than those which would be deemed appropriate at a more advanced stage of organization.³ However, even in those cases where the limited scope of organization was the basis of the units proposed, we have declined to find such units appropriate for bargaining purposes unless they comprise clearly identifiable and homogeneous groups of employees.⁴ The issue in the instant proceedings, therefore, is whether or not the separate units here sought by the Union meet these tests.

The engineers and plumbers are attached to Department 5050, known as the Heat, Light and Power Department. Also included in this department are electricians, mechanics, elevator repairmen, and the cash register repairman. The department is supervised by two associate chief engineers, one of whom is in charge of the engineers, plumbers, and mechanics, while the other supervises the electricians, elevator repairmen, and the cash register repairman.

The principal function of the engineers, all of whom are licensed, is to maintain and operate the Company's huge air conditioning and heating system. They work three shifts daily, while the other employees work only one shift. There are five engineers on the morning shift, three of whom work entirely on the machinery, the other two working as maintenance men and general repairmen throughout the store. The three engineers assigned to the afternoon shift operate the machinery while the other employees in Department 5050 are on duty, but when these other employees leave for the day, the engineers are responsible for all maintenance and repair work throughout the store. The engineer on the night shift also acts as a general maintenance and repairman during his shift. An engineer located at a nearby warehouse maintains the boiler and stoker at that location. The plumbers, also licensed as such, maintain the plumbing

³ *Matter of Servel, Inc.*, 51 N. L. R. B. 224; and 48 N. L. R. B. 712; *Matter of Kentucky Utilities Company*, 46 N. L. R. B. 818; *Matter of Western Automatic Screw Machine Co.*, 51 N. L. R. B. 1042; *Matter of Standard Overall Company*, 53 N. L. R. B. 1049.

⁴ See *Matter of Triangle Publications*, 40 N. L. R. B. 1330, *Matter of Loose-Wiles Biscuit Co.*, 44 N. L. R. B. 65; *Matter of Flint Mfg. Co (Plant 2)*, 49 N. L. R. B. 1084.

throughout the building, install new plumbing facilities when necessary, and repair steam and water pipes.⁵ They work only one shift per day.

While these facts indicate to some extent that the engineers and firemen, respectively, constitute homogeneous and functionally distinct groups, the record shows that there is a great deal of overlapping of the functions of the various occupational groups in Department 5050. Thus, the engineers frequently do plumbing work and assist the electricians and mechanics; the plumbers frequently assist the electricians and mechanics; and the electricians help the mechanics and plumbers. In sum, Department 5050 appears to be a homogeneous operating group with no clear demarcation of craft lines therein. We do not believe that the fractional parts of this department for which the Union here contends can feasibly constitute separate appropriate bargaining units.⁶

We accordingly find that no question has arisen concerning the representation of the Company in an appropriate bargaining unit. The petition for investigation and certification of representatives will therefore be dismissed.

ORDER

Upon the basis of the foregoing findings of fact and the entire record in the case, the National Labor Relations Board hereby orders that the Petition for investigation and certification of representatives filed by United Retail, Wholesale and Department Store Employees of America, C. I. O., be, and it hereby is, dismissed.

⁵ Only one employee is listed as a steamfitter, the remainder of the employees being considered by the Company to be combination plumber-steamfitters, although it refers to them simply as plumbers.

⁶ Cf. *Matter of The J. L. Hudson Company*, 49 N. L. R. B. 273.