

In the Matter of NORTHERN FURNITURE COMPANY and UNITED
FURNITURE WORKERS, OF AMERICA, LOCAL 800 (C. I. O.)

Case No. 13-R-2151.—Decided January 27, 1944

Mr. George R. Currie, of Sheboygan, Wis., for the company.

Meyers & Meyers, by *Mr. Ben Meyers*, of Chicago, Ill., for the Union.

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by United Furniture Workers of America, Local 800 (C. I. O.), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Northern Furniture Company, Sheboygan, Wisconsin, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert R. Rissman, Trial Examiner. Said hearing was held at Sheboygan, Wisconsin, on December 21, 1943.¹ The Company and the Union appeared at and participated in the hearing.² All parties 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

Northern Furniture Company, a Wisconsin corporation, maintains its principal office and place of business at Sheboygan, Wisconsin,

¹ The hearing was originally scheduled for December 22, 1943. Notice of change of hearing date was given to all served with the original Notice of Hearing.

² Although Upholsterers International Union, A. F. of L., and Wisconsin State Federation of Labor were served with Notice of Hearing, they did not appear.

where it is at present engaged in the manufacture, sale, and distribution of airplane parts and furniture. Approximately 70 percent of the raw materials used by the Company is obtained by it from sources outside the State of Wisconsin, while approximately 90 percent of all products manufactured by the Company, valued annually at more than \$2,000,000, is sold and shipped by it to consignees in States other than Wisconsin. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

United Furniture Workers of America, Local 800, is a labor organization affiliated with the Congress of Industrial Organizations admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On about November 1, 1943, the Union requested the Company to recognize it as the exclusive collective bargaining representative of its employees at the Sheboygan plant. The Company refused to recognize the Union without prior certification by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.³

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 urges that all production and maintenance employees of the Company at its Sheboygan plant,⁴ excluding sales force employees, office and clerical employees, the shipping clerk, the billing clerk, outside truck drivers, full-time guards of the auxiliary military police, executives, the chief engineer, the chief aircraft inspector, the head timekeeper, superintendent, foremen, and foreladies, constitute an appropriate unit. The Company concurs in the Union's position, except that the Company seeks the exclusion also of the stockkeeper, the final furniture inspector, and part-time militarized guards.

The stockkeeper is responsible for distributing stock, keeping stock records, dealing with the purchasing agent to maintain a proper level

³ The Field Examiner reported that the Union presented 177 membership application cards bearing apparently genuine signatures of which 145 are the names of persons whose names appear on the Company's pay roll of December 7, 1943. There are approximately 455 employees in the appropriate unit.

⁴ The record does not indicate what other plants, if any, the Company operates

of stock, and for the receipt and proper quality of incoming material. Prior to entry upon his present job 3 or 4 years ago, the stockkeeper was a foreman in the plant. He is paid a salary and works under the supervision of the plant superintendent and the purchasing agent. His present salary was computed on a special basis calculated to give him the same amount as he received while a foreman. The stockkeeper's duties place him more closely to the categories of office and clerical employees, whom the parties would exclude from the unit, than those of the production and maintenance employees. That, together with his special salary arrangement lead us to conclude that he should not be included in the unit. We shall exclude him.

The final furniture inspector inspects every piece of furniture which leaves the plant. His superior is the shipping clerk, who acts as assistant superintendent, and has other employees under his supervision. The final furniture inspector is the only employee under the shipping clerk paid on a salary basis.⁵ Prior to assuming his present job about 2 years ago, the final furniture inspector was one of the Company's foremen. The Company employs other furniture inspectors who inspect individual operations rather than the finished piece of furniture. They are paid on an hourly basis. The final furniture inspector has no employees directly under his supervision, but appears to have some power to recommend discharge for inefficiency. It is not clear whether he makes such recommendations concerning the production workers, the other inspectors, or both. The record is not sufficiently definite as to the recommendatory power of the final furniture inspector to permit a determination as to his supervisory status. We shall therefore exclude or include him according to whether he falls within the customary definition of supervisory employees set forth below.

Guards. The Company employs four full-time guards who are members of the auxiliary military police. Both parties agree that these four guards should be excluded from the appropriate unit. A question arises, however, as to three part-time guards, two of whom are also members of the auxiliary military police; and the third not yet sworn in at the time of the hearing, but who will probably be sworn in within the near future, or may have been already. All three of the employees in question perform production work during the regular workweek. One of the three works all day Sunday as a guard, while the other two act as guards during lunch periods, at night and whenever the regular guards are absent, and all are always subject to call to guard duty. Each of the three guards in question spends from 40 to 50 hours weekly on production work, and from 10 to 12 hours weekly as a guard. We find that the major employment of

⁵ The record does not indicate whether the other employees working under the shipping clerk are within or without the unit sought by the Union.

the three part-time guards is in the capacity of production employees and that, in such capacity, they have a sufficiently substantial interest in the selection of a collective bargaining representative for the production and maintenance employees to warrant their inclusion in the unit hereinafter found to be appropriate. We do not regard the fact that these employees are employed as militarized guards a minor portion of their time as an adequate reason to deny them the right to representation in their capacity as production employees.⁶ We shall include them in the unit.

We find that all production and maintenance employees of the Company at its Sheboygan plant, excluding sales force, office and clerical employees, the shipping clerk, the billing clerk, outside truck drivers, full-time guards of the auxiliary military police, executives, the chief engineer, the chief aircraft inspector, the head timekeeper, superintendent, foremen, foreladies, and any other supervisory employees with authority to hire, discharge, discipline, promote, 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 means of 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 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 Northern Furniture Company, Sheboygan, Wisconsin, 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 Thirteenth 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

⁶ See *Matter of Charles E. Reed & Co.*, 54 N. L. R. B. 322.

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 United Furniture Workers of America, Local 800 (C. I. O.), for purposes of collective bargaining.