

In the Matter of THOMASVILLE CHAIR COMPANY (PLANT B, OLD BARD-PLANT) and FURNITURE WORKERS LOCAL UNION 2992, CHARTERED BY THE UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA (AFL)

*Case No. 5-R-1341.—Decided February 4, 1944*

*McLendon & Holderness*, by *Mr. T. H. Brooks*, of Greensboro, N. C., for the Company.

*Messrs. Joe Boyd* and *L. J. Hutton*, of High Point, N. C., for the Furniture Workers.

*Mr. C. F. Bradley*, of Asheville, N. C., for the Upholsterers.

*Mr. A. Sumner Lawrence*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Furniture Workers Local Union 2992, chartered by the United Brotherhood of Carpenters and Joiners of America (AFL), herein called the Furniture Workers, alleging that a question affecting commerce had arisen concerning the representation of employees of Thomasville Chair Company, Thomasville, North Carolina, the National Labor Relations Board provided for an appropriate hearing upon due notice before Keith W. Blinn, Trial Examiner. Said hearing was held at Thomasville, North Carolina, on December 7, 1943. The Company, the Furniture Workers, and Upholsterers International Union Local No. 308 (AFL), herein called the Upholsterers, 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. The Company's motion to dismiss is hereby denied. The request of the Furniture Workers for oral argument is denied. 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

Thomasville Chair Company, a North Carolina corporation, has its principal office and place of business in Thomasville, North Carolina, where it has nine plants and is engaged in the manufacture and distribution of wooden and upholstered furniture. During the year 1942, the Company purchased for use at its Thomasville plants lumber and other raw materials valued in excess of \$1,000,000, of which 75 percent of the lumber and 90 percent of the remaining raw materials were obtained from points outside the State of North Carolina. During the same period, the Company manufactured at its Thomasville plants finished products valued in excess of \$5,000,000, of which 97 percent was sold and shipped to points outside the State of North Carolina. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

#### II. THE ORGANIZATIONS INVOLVED

Furniture Workers Local Union 2992, chartered by the United Brotherhood of Carpenters and Joiners of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Upholsterers International Union Local No. 308, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.<sup>1</sup>

#### III. THE QUESTION CONCERNING REPRESENTATION

On July 10, 1943, the Furniture Workers, claiming majority representation, requested that the Company recognize it as exclusive bargaining representative of the production and maintenance employees at Plant B, one of the Company's nine Thomasville plants. The Company declined to recognize the Furniture Workers upon the ground that the unit sought was inappropriate.

A statement of the Regional Director, together with other evidence introduced at the hearing, indicates that the Furniture Workers rep-

<sup>1</sup> The Furniture Workers contends that the Upholsterers' local is no longer in existence among the employees of the Company. While it appears that there has been a shift of membership on the part of certain leaders of the Upholsterers' local together with the formation of a new local within the organization of the Furniture Workers, there is no evidence of a formal dissolution of the Upholsterers' local, which continues to maintain a partial organization among the employees of the Company. Notwithstanding the existence of a doubt as to the status of the Upholsterers' local, we are of the opinion that the record does not establish that the Upholsterers' local has been dissolved or that it is otherwise incapable of functioning as representative of the employees of the Company.

resents 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 2 (6) and (7) of the Act.

#### IV. THE APPROPRIATE UNIT

The Furniture Workers contend that all production and maintenance employees at the Company's Plant B, including watchmen, truck drivers, and checkers, but excluding clerical and supervisory employees of the rank of foreman and above, constitute a unit appropriate for the purposes of collective bargaining. On the other hand, the Company and the Upholsterers, while agreeing to the specific inclusions and exclusions proposed by the Furniture Workers, urge that the appropriate unit should include the employees at all nine plants of the Company.<sup>3</sup>

The Company's operations covering the manufacture of various types of furniture, while functionally integrated under a common overall management, are distributed among a group of plants, all of which are located within the town of Thomasville and separated from one another by an average distance of approximately 1 mile. Of these, Plant B, urged by the Furniture Workers as the basis of the appropriate unit, although self-sufficient to a considerable degree, is, nevertheless, dependent upon at least two other plants of the Company for the completion of the product therein manufactured.<sup>4</sup> Also the items of furniture made at Plant B are seldom sold individually, but are for the most part sold in sets which require the addition of chairs and benches manufactured in Plant C. On the other hand, it appears that Plant B, in common with the other plants, has a semi-autonomous position in the Company's organization, as indicated by the fact that it is under the supervision of a separate superintendent with substan-

<sup>2</sup> The Regional Director reported that the Furniture Workers had submitted 136 designations, dated between April 1942 and October 1943, with 4 undated, of which 107 bore the apparently genuine original signatures of persons whose names are on the Company's pay roll for July 24, 1943, containing 258 names within the claimed appropriate unit.

The Trial Examiner reported that at the hearing the Furniture Workers had submitted 27 additional designations dated between October and December 1943, of which 16 bore the apparently genuine original signatures of persons whose names appear on the Company's pay roll for July 24, 1943.

The Upholsterers submitted only 25 designations dated between October 1941 and July 1942, of which 2 bore the apparently genuine original signatures of persons whose names are on the Company's pay roll for July 24, 1943, within the unit claimed by the Furniture Workers to be appropriate for the purposes of collective bargaining.

<sup>3</sup> There are approximately 1,718 employees in the 9-plant unit sought by the Company and the Upholsterers.

<sup>4</sup> The plants thus functionally related to Plant B are Plants E and V, which provide respectively the carvings and panels used in the manufacture of furniture at Plant B.

tial independent authority.<sup>5</sup> In addition thereto, while the employees of Plant B perform similar work and enjoy generally the same working conditions as the employees in the other plants of the Company,<sup>6</sup> the almost complete absence of any interchange of Plant B employees with those of other plants and the absence of any seniority system upon a company-wide basis, point to the existence at Plant B of an identifiable homogeneous group of employees, capable of bargaining collectively within the meaning of the Act.

Notwithstanding these facts, the Company and the Upholsterers contend that the extent of organization and the determination by the Board in a prior proceeding involving the Company,<sup>7</sup> preclude the finding of an appropriate unit limited to a single plant of the Company. The evidence discloses that while both the Furniture Workers and the Upholsterers have in the past attempted to organize the employees concerned upon a company-wide basis,<sup>8</sup> no employee self-organization of any consequence now exists on such basis.<sup>9</sup> Furthermore, the fact that, in the prior proceeding involving the Company, the Board found that a company-wide unit was appropriate for the purposes of collective bargaining, is not determinative of the issue where such prior determination has not resulted either in a certification or in a history of collective bargaining.<sup>10</sup> The only evidence of representation in the present instance is limited to the employees of Plant B, indicating the present desire of those employees to secure the benefits of collective bargaining. Although a company-wide unit, as urged by the Company and the Upholsterers, would not be inappropriate, since the record shows that the employees at Plant B are an integrated and identifiable group that can effectively function as a unit for the purposes of collective bargaining pending a more complete organization in the other plants of the Company, we find that a unit limited to the employees at Plant B is appropriate for the purposes of collective bargaining at the present time.<sup>11</sup> Our finding in this

<sup>5</sup> See *Matter of Pacific Lumber Company*, 51 N. L. R. B. 407. While the plant superintendent may not hire employees, he may discharge employees under his supervision without obtaining the approval of the personnel office.

<sup>6</sup> The Company maintains a uniform labor policy throughout all nine Thomasville plants.

<sup>7</sup> See *Matter of Thomasville Chair Company*, 37 N. L. R. B. 1017.

<sup>8</sup> The record indicates that there has been no active campaign upon a company-wide basis for more than a year, the current campaign of the Furniture Workers having been confined to the employees of Plant B after unsuccessful attempts to organize the employees in other plants of the Company.

<sup>9</sup> The only evidence of present interest in organization among employees other than these of Plant B consists of a statement by a witness for the Upholsterers to the effect that approximately a month prior to the hearing, about five employees from Plant D expressed a desire that something be done with reference to employee organization.

<sup>10</sup> See *Matter of Kentucky Fluorspar Company*, 52 N. L. R. B. 227. In the prior proceeding in which the Upholsterers was the only organization to appear on the ballot, the Upholsterers lost the election (39 N. L. R. B. 22) and thereafter apparently abandoned all further attempts to bargain collectively or to organize the Company's employees.

<sup>11</sup> See *Matter of Kentucky Utilities Company*, 46 N. L. R. B. 818; *Matter of Dixie Manufacturing Company, Inc.*, 53 N. L. R. B. 384; and *Matter of Charles H. Bacon Company*, 54 N. L. R. B. 703.

respect, however, does not preclude a later determination that a larger unit is appropriate when effective organization has extended to employees in other plants of the Company.

We find that all production and maintenance employees at Plant B of the Company, including watchmen,<sup>12</sup> truck drivers, and checkers, but excluding clerical and supervisory employees of the rank of foreman and above and all other 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, subject to the limitations and additions set forth in the Direction.

The Upholsterers moved at the hearing that its name be placed on the ballot in any election that might be directed by the Board. The Furniture Workers, on the other hand, moved that the Upholsterers be denied a place on the ballot in any election resulting from the present proceeding, upon the ground that the Upholsterers had failed to make a substantial showing of representation within the appropriate unit. In reply thereto, the Upholsterers contends that its failure to produce a substantial showing of representation is due to the loss of a large number of cards which were allegedly removed without authority from its possession by seceding members on or about June 25, 1942. Under these circumstances, and in view of our finding that the record does not establish that the Upholsterers is incapable of functioning as bargaining representative, we shall direct that the name of the Upholsterers appear on the ballot in the election hereinafter directed.<sup>13</sup> The motion of the Upholsterers for leave to appear on the ballot is accordingly granted and the opposing motion of the Furniture Workers is for similar reasons denied.

The Furniture Workers and the Upholsterers request that they appear on the ballot, respectively, as "Furniture Workers Local Union 2992 (U. B. C. J. of A.-A. F. of L.)," and as "Upholsterers International Union, Local 308, A. F. of L.," respectively. The requests are hereby granted.

<sup>12</sup> The watchmen concerned are not militarized in any respect.

<sup>13</sup> See *Matter of The A. S. Abell Company*, 51 N. L. R. B. 1162.

## 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 Thomasville Chair Company, Thomasville, North Carolina, 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 election, to determine whether they desire to be represented by Furniture Workers Local Union 2992 (U. B. C. J. of A.-A. F. of L.), or by Upholsterers International Union Local 308, A. F. of L., for the purposes of collective bargaining, or by neither.