

In the Matter of R. O. LAYFIELD, AN INDIVIDUAL *and* AMALGAMATED
CLOTHING WORKERS OF AMERICA (C. I. O.)

Case No. 1-R-1689.—Decided February 5, 1944

Mr. William H. Edmunds, of Burlington, Vt., for the Company.

Mr. Harold Daoust, of Winooski, Vt., for the Union.

Mr. Charles W. Schneider, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Amalgamated Clothing Workers of America (C. I. O.), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of R. O. Layfield, an individual,¹ Burlington, Vermont, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Thomas H. Ramsey, Trial Examiner. Said hearing was held at Burlington, Vermont, on December 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

R. O. Layfield is an individual having an office and plant located in Burlington, Vermont, where he is engaged in the manufacture of ladies' nightwear. Layfield uses annually raw materials, consisting of cotton and rayon, valued in excess of \$100,000, all of which

¹ The correct name of the Company, in accordance with an amendment to the pleadings made at the hearing.

are received from A. and M. Goodman, New York City. Layfield does not acquire title to these materials, but fabricates them into garments which he ships to Goodman in New York. As compensation Layfield receives from Goodman about \$100,000 annually.

Layfield admits that for the purposes of this proceeding he is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Amalgamated Clothing Workers of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

During the early part of October 1943, the Union notified the Company that it represented a majority of the Company's employees and requested recognition as collective bargaining representative. The Company declined to accord such recognition until the Union was certified by the Board.

A statement of the Regional Director, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.²

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

In accordance with a stipulation of the parties, we find that all production and maintenance employees of the Company, excluding executives, clerical employees, floorladies and 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.

² The Regional Director reported that the Union submitted evidence that it represented 28 of the 64 employees in the appropriate unit according to the November 20, 1943, pay roll.

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 R. O. Layfield, Burlington, Vermont, 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 First 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 Amalgamated Clothing Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.