

In the Matter of FAIR HAVEN MANUFACTURING COMPANY and TEXTILE WORKERS UNION OF AMERICA (CIO)

Case No. 1-R-1705.—Decided February 7, 1944

Mr. Gilbert T. Loveridge, of Fair Haven, Vt., for the Company.

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

Mr. William Strong, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Textile Workers Union of America (C. I. O.), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Fair Haven Manufacturing Company, Fair Haven, Vermont, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Samuel G. Zack, Trial Examiner. Said hearing was held at Rutland, Vermont, on January 6, 1944. The Company and the Union appeared and participated. 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 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

Fair Haven Manufacturing Company, a partnership, is engaged at Fair Haven, Vermont, in the manufacture of synthetic yarn. All of the raw materials used by the Company in its manufacture, valued annually at between \$20,000 and \$25,000, are brought to its plant from points outside the State of Vermont. All of the finished products of the Company, valued at between \$70,000 and \$80,000 annually, are shipped to points outside that State. We find that the Company is

engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

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

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of the employees of the Company until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, 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

We find, in substantial agreement with a stipulation of the parties, that all production and maintenance employees of the Company, excluding office and clerical employees, engaged exclusively in clerical work, executives and any 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.

A question arises as to the eligibility of employee Anna Sule to participate in the election, the Union contending that she is a supervisor and the Company disputing that contention. The Company consists of two partners, who, it claims, are the only supervisors. Sule

¹ The Acting Regional Director reported that the Union submitted 22 membership cards all of which bore apparently genuine original signatures, that the names of 19 persons appearing on the cards were listed on the Company's pay roll of December 4, 1943, which contained the names of 35 employees in appropriate unit.

is the highest paid hourly employee, of whom there are six; the rest of the employees are paid on a piece-work basis. Sule is in charge of the employees, receiving instructions from the partners and relaying them to the employees, reporting the efficiency or inefficiency of employes, training new employees and directing the work through the plant. Sule is responsible for the progress of work. She has the power to and recommends the discharge of employees, and her recommendations are generally accepted and carried out. We find that Sule is a supervisory employee, excluded from the unit and not eligible to participate in the election.

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 Fair Haven Manufacturing Company, Fair Haven, 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 those employees 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 Textile Workers Union of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.