

In the Matter of ROBERT GAIR COMPANY, INC., NATICK BOX AND BOARD DIVISION¹ and INTERNATIONAL PRINTING PRESSMEN AND ASSISTANTS' UNION OF NORTH AMERICA (AFL)

Case No. 1-R-1699.—Decided February 29, 1944

Rathbone, Perry, Kelley, and Drye, by Mr. Roderick T. Clark, of New York City, for the Company.

Mr. Anthony J. DeAndrade, of Boston, Mass., for the Pressmen.

Mr. Bernard Cushman, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Printing Pressmen and Assistants' Union of North America (AFL), herein called the Pressmen, alleging that a question affecting commerce had arisen concerning the representation of employees of Robert Gair Company, Inc., Natick Box and Board Division, herein called the Company,² the National Labor Relations Board provided for an appropriate hearing upon due notice before Thomas H. Ramsey, Trial Examiner. Said hearing was held at Boston, Massachusetts, on January 21, 1944. The Company and the Pressmen 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.

¹ Incorrectly described in the petition as Robert Gair Company, Inc., and corrected by motion granted without objection at the hearing to read as set forth in the above caption.

² In the petition both the Company and Natick Box and Board Company, also referred to in the record as Natick Box and Board Company, Inc., were named as employers. Subsequent to the filing of the petition and prior to the hearing, the Natick Box and Board Company sold the plant in question here to the Company. The Trial Examiner reserved decision for the Board on a motion made at the hearing to dismiss the petition insofar as it names Natick Box and Board Company as an employer. No objection was made to the motion. It is hereby granted.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Robert Gair Company, Inc., is a corporation organized and existing under the laws of the State of Delaware. It operates a plant in Natick, Massachusetts, known as the Natick Box and Board Division of Robert Gair Company, Inc. This plant is the only plant involved in this proceeding. At its Natick plant the Company operates both a box shop and a board mill.

The principal raw material used in the Company's box shop consists of paper board. During the 6-month period ending November 30, 1943, the Company purchased raw materials within the State of Massachusetts to a value of \$175,383, and during the same period purchased raw materials outside the State of Massachusetts to a value of \$2,447. During the same period the Company sold finished products within the State of Massachusetts to a value of \$185,167 and during the same period sold finished products outside the State of Massachusetts to a value of \$36,830.

The principal raw material used by the Company at its board mill consists of waste paper. During the same period above mentioned, the Company purchased within the State of Massachusetts, waste paper and other materials to a value of \$181,186, and purchased waste paper and other materials from without the State of Massachusetts, to a value of \$10,228.

The finished product of the board mill consists of paper board. During the period above referred to the Company sold paper board within the State of Massachusetts to a value of approximately \$332,978. During the same period the Company sold paper board outside the State of Massachusetts to a value of \$33,594.

The Company also operates 14 plants located at Brooklyn, New York; Philadelphia, Pennsylvania; Piermont, New York; Portland, Connecticut; New London, Connecticut; Haverhill, Connecticut; Holyoke, Massachusetts; Newton Upper Falls, Massachusetts; Utica, New York; Syracuse, New York; Tonawanda, New York; North Tonawanda, New York; and Cleveland, Ohio (two plants).³ The Board recently found that a wholly owned subsidiary of the Company was engaged in commerce at the Bogota, New Jersey, plant.⁴ The

³ The Board so found in *Matter of Gair Bogota Corrugated and Fibre Corp.*, 54 N. L. R. B. 1170.

⁴ See footnote 3, *supra*

Board has also found that at the Tonawanda plant, the Company was engaged in commerce within the meaning of the Act.⁵

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

International Printing Pressmen and Assistants' Union of North America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

Sometime prior to December 1, 1943, the Company received notice from the Pressmen to the effect that the Pressmen had requested the Natick Box and Board Company for recognition as the exclusive bargaining representative of the employees employed in the box shop of that Company. The Company thereafter advised the National Labor Relations Board that it desired a determination of the question of the appropriateness of the unit by the Board.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Pressmen represents a substantial number of employees in the unit hereinafter found appropriate.⁶

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 Pressmen requests that the Board find the following unit to be appropriate: "All box department employees, excluding executives, non-working supervisors, office and clerical employees." At the Natick plant, the Company operates a paper mill and a box shop. The Company contends that the appropriate unit includes the employees at both the paper mill and the box shop. The paper mill is housed in a

⁵ In the *Matter of Robert Gair Co., Inc. (Tonawanda Box Boards Division)*, 46 N. L. R. B. 1102.

⁶ A Field Examiner reported that the Pressmen submitted 37 application for membership cards; and that the aforesaid application for membership cards were dated as follows:

December 1943.....	1
November 1943.....	35
Undated.....	1

There were 45 employees in the alleged appropriate unit.

The Company objected to the admission of the statement of the Field Examiner in evidence. We have repeatedly indicated the invalidity of such objections. *Matter of Amos Thompson Corporation*, 49 N. L. R. B. 423.

separate building which is connected with the building in which the box shop is housed by a runway approximately 130 feet in length. Paper is brought from the paper mill into the box department for conversion into boxes, and the runway is used for the transportation of paper board from the paper mill to the box shop. At the paper mill paper board is manufactured from raw materials. In the box department, the paper board is converted into paper boxes. There is a division manager who is in charge of operations at both buildings. There is one personnel manager who is in charge of personnel for all departments in both shops. The operations of the accounting, purchasing, and traffic departments cover both shops. However, each building has a separate superintendent. The operations carried on at each building are dissimilar in general, and the employees engaged in these operations are not ordinarily transferred from one department to the other. The Pressmen does not admit to membership employees in the paper mill since these employees are under the jurisdiction of another affiliate of the American Federation of Labor. The Pressmen has confined its organizational efforts to employees in the box department. Since 1936, the Pressmen has had a contract with the Company covering employees at the Piermont, New York, plant, in a unit identical in substance with that sought here. It further appears that the Pressmen is the only labor organization seeking to organize the box-shop employees. In view of all the circumstances, we are of the opinion that a unit limited to employees in the box shop is appropriate, and we so find.

Working foremen.—There are six employees in this classification. Prior to the war these employees did no manual labor, but spent all of their time in supervisory duties. As the result of the manpower shortage, however, these foremen now spend approximately 75 percent of their time in manual labor. They have the right to recommend discharge and their recommendations are given weight. The Pressmen desires the inclusion of working foremen and the Company contends that they should be excluded. No evidence was introduced to show that foremen had been traditionally included under the coverage of collective bargaining contracts in the paper box industry. In accordance with our customary practice, we shall exclude working foremen.

Truck drivers.—The Company employs two truck drivers who spend a portion of each day working in the plant. The Pressmen desire their inclusion. The Company takes no position. Since the interests of the truck drivers are closely related to those of the other employees in the box department whom we shall include in the unit, we find that the truck drivers should likewise be included.

We find that all employees in the box department of the Company, including truck drivers, but excluding office and clerical employees,

working foremen, 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.

It appears that the Company employs one high school student who works daily in the box department from 2:30 to 5 o'clock. We find that this employee is a regular part-time employee who, in accordance with our usual practice, is eligible to vote.

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 Robert Gair Company, Inc., Natick Box and Board Division, Natick, Massachusetts, 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 International Printing Pressmen and Assistants' Union of North America, affiliated with the American Federation of Labor, for the purposes of collective bargaining.