

In the Matter of THE STEAD & MILLER CO. and TEXTILE WORKERS UNION  
OF AMERICA

*Case No. 5-R-1474.—Decided March 21, 1944*

*Drinker, Biddle & Reath*, by *Mr. Edwin A. Lucas*, of Philadelphia, Pa., for the Company.

*Messrs. J. D. Pedigo* and *E. W. Witt*, of Concord, N. C., 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, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The Stead & Miller Company, Concord, North Carolina, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert A. Levett, Trial Examiner. Said hearing was held at Concord, North Carolina, on February 14, 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.<sup>1</sup>

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company, a Pennsylvania Corporation, has its main office in Philadelphia, Pennsylvania, sales offices in New York City, Chicago,

<sup>1</sup> Upon concurrence of the parties, certain corrections have been made in the stenographic transcript of testimony in this case.

Los Angeles, and Atlanta, and a plant at Concord, North Carolina. We are here concerned only with the Company's plant, where it manufactures upholstery goods and drapery fabrics. During 1943 the Company manufactured finished products totally valued at about \$1,382,719, of which about \$1,314,000 in value were shipped to points outside the State of North Carolina.<sup>2</sup>

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

## II. THE ORGANIZATION INVOLVED

Textile Workers 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 certain of the Company's employees 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.<sup>3</sup>

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 seeks a unit composed of all production and maintenance employees of the Company at its plant, excluding watchmen, the gatekeeper, inspectors, and all clerical and supervisory employees.

The Company would include in the unit all employees of the Company except the overseers and main office clerical employees. The Union does not receive into membership the categories of employees whom it would exclude from the unit and does not appear to have sought to organize them. Exclusion of such fringe groups from an industrial unit, is not infrequent. We have heretofore excluded most of these classes of employees from a production and maintenance unit at this plant.<sup>4</sup> We shall exclude them from the unit which we find appropriate.

<sup>2</sup> The Company is successor to the Hartsell Mills Company. See *Matter of Hartsell Mills Company*, 18 N. L. R. B. 268.

<sup>3</sup> The Field Examiner reported that the Union submitted 131 membership cards, 126 of which bore signatures of persons appearing on the Company's pay roll of January 8, 1944, which contained the names of 188 employees in the alleged appropriate unit.

<sup>4</sup> See *Matter of Hartsell Mills Company*, 18 N. L. R. B. 268.

We find that all production and maintenance employees of the Company at its Concord plant, excluding watchmen, the gatekeeper, inspectors, all clerical and all supervisory employees with authority to hire, discharge, promote, 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 payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

The parties disagree as to the status of certain employees at the plant.

*C. A. Honeycutt* is an assistant overseer in the weave room.<sup>5</sup> He directs, assigns, and supervises the work of other employees, and can effectively recommend changes in their status. We find that Honeycutt is a supervisory employee, and as such is without the unit and is ineligible to participate in the election.<sup>6</sup>

*Paul Tucker* is a head loom fixer. There are eight loom fixers. Although the Company asserts that Tucker is merely a "trouble shooter" without supervisory authority, at least one employee testified that Tucker inspects looms and gives him and other employees orders to clean their looms. Tucker apparently can effectively recommend changes in the status of loom fixers. The Union would exclude Tucker from the unit; the Company would include him. We shall exclude Tucker in view of his exercise of supervisory functions.

*Lee Blackwelder* is a night overseer. He is in charge of the second shift and can effectively recommend changes in the status of ordinary employees. The Union seeks his exclusion from, while the Company desires his inclusion in the unit. Blackwelder falls without our usual definition of supervisory employees. We shall exclude him from the unit.<sup>7</sup>

*Mae Belle Verble*, listed on the Company's pay roll as a "mender," spends about two hours each week sending out samples, the rest of the time performing mending work. Prior to a year and a half ago, Verble was in charge of the sample department and was equivalent

<sup>5</sup> The Company employs another assistant overseer, John McGrath, whom it and the Union agree to exclude from the unit as being supervisory.

<sup>6</sup> Cf. the *Hartsell Mills* case, *supra*.

<sup>7</sup> All other overseers are excluded by the parties themselves as supervisors.

in rank to an overseer. That department has been reduced in its operations, and at present has no employees, all duties being performed by Verble. We shall include her in the unit.

*J. M. Hensley* is listed on the Company's pay roll as a "dyer." The Union claims that he is a supervisor. The Company states that he is an ordinary employee. Hensley does not operate a dyeing machine. He receives instruction as to formulas from the overseer and weighs out the dyes for the operators. Hensley is "a second hand."<sup>8</sup> He has refused to join the Union when solicited to do so on the ground that he is assistant to the overseer and superintends the work in the department during the overseer's absence. We shall exclude Hensley from the unit.

### 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 The Stead & Miller Company, Concord, 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 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.

<sup>8</sup> Blackwelder also appears to be "second-hand"