

In the Matter of SALANT AND SALANT, INC. and AMALGAMATED CLOTHING WORKERS OF AMERICA, C. I. O.

Case No. 10-R-1130.—Decided March 24, 1944

Messrs. Joseph Martin and Gordon McKelvey, of Nashville, Tenn., for the Company.

Mr. Carl F. Albrecht, of Nashville, Tenn., for the Union.

Mr. William C. Baisinger, Jr., 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 Salant and Salant, Inc., Lawrenceburg, Tennessee, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Erwin C. Catts, Jr., Trial Examiner. Said hearing was held at Lawrenceburg, Tennessee, on February 26, 1944. The Company and the Union appeared and participated.¹ The parties were afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing upon the issues, and to file briefs with the Board. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case,² the Board makes the following :

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Salant and Salant, Inc., a New York corporation, operates a shirt manufacturing factory in Lawrenceburg, Tennessee. At this plant,

¹ A waiver signed by the Union, introduced into evidence at the hearing, states that the Union waives the right to protest any election held as a result of this proceeding on the basis of the charge of unfair labor practices filed by it in Case No. 10-C-1354.

² Subsequent to the hearing, the parties entered into a stipulation providing for the correction of certain errors appearing in the transcript. The stipulation is hereby made a part of the record and the transcript is ordered corrected in accordance therewith.

the Company uses substantial amounts of raw materials, the majority of which are shipped to the plant from points outside the State of Tennessee. The Company's Lawrenceburg, Tennessee, plant produces substantial amounts of finished products, the majority of which are shipped from the plant to points outside the State of Tennessee. The Company admits and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.³

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

At the hearing the parties stipulated that prior to filing its petition herein the Union had requested the Company to recognize it as the exclusive bargaining representative of the employees within an alleged appropriate bargaining unit and that the Company had refused to accord the Union such recognition.

A statement prepared by the Trial Examiner and read into the record at the hearing indicates that the Union represents a substantial number of employees within the unit hereinafter found to be appropriate.⁴

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 contends that all production employees employed at the Company's Lawrenceburg, Tennessee, plant, excluding mechanical-maintenance employees, watchmen, clerical employees, supervisory employees, and any other employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute an appropriate bargaining unit. The Company denies the appropriateness of such a unit, contending that all production and main-

³ The Company, at the date of the hearing, was unable to furnish accurate data with respect to the volume and value of raw materials and finished products, but stipulated to the above facts concerning its business.

⁴ The Trial Examiner stated on the record that the Union had submitted to him 373 applications for membership cards bearing apparently genuine original signatures of persons whom the Union contends are within the alleged appropriate unit, and that 15 of these cards are undated and that the remainder bear dates ranging from June 1943 to February 1944. From the record it appears that, at the date of the hearing, the Company employed approximately 510 persons within the appropriate unit.

tenance employees working in its Lawrenceburg, Tennessee, plant, excluding clerical employees and supervisory employees with authority to hire and discharge, comprise the appropriate bargaining unit. The parties agree that the plant superintendent, the assistant plant superintendent in charge of the sewing department, the assistant plant superintendent in charge of the cutting department, the foreman of the shipping and receiving department, and the foreman of the finishing department, are supervisory employees within our customary definition and should be excluded from the appropriate bargaining unit.

The parties are in dispute with respect to the disposition of the following employees:

Floorladies.—The Union contends that the 7 floorladies employed in the sewing department should be excluded from the unit because they exercise supervisory authority over the production employees in their department. The Company, on the other hand, denies that the floorladies are supervisory employees and contends that they should be included in the unit. The 7 floorladies work under the supervision of the assistant superintendent in charge of the sewing department. They supervise the work of 36 sewing machine operators in that department. They assign work and keep production records for each of the machine operators and report the quantity and quality of work produced by them to the assistant superintendent. The floorladies are paid by the hour at a rate higher than the operators and in addition receive \$1 per week bonus. While it is true that the floorladies do not possess the authority to hire or discharge the employees working under them, they do report neglect or derelictions on the part of the operators to the assistant superintendent and make recommendations with respect to disciplinary measures upon which the assistant superintendent bases his decision. We are of the opinion and find that the floorladies can effectively recommend changes in the status of the employees whose work they supervise. Accordingly, we shall exclude them from the appropriate unit.

Inspection floorlady.—The inspection floorlady supervises the work of the 25 or 30 inspection employees who are employed in the plant. It appears that inspectors act as trimmers in the sewing department in addition to performing their primary function as inspectors. The inspection floorlady spends a substantial amount of her working time repairing flaws in the work produced in the sewing department. She also checks the bundles of finished products which have been inspected and approved by the inspectors, and if the work does not meet with her approval, she returns it to the departmental head or directly to the operator for reworking, or she may repair the work herself. The Union desires to exclude the inspection floorlady as a supervisory

employee, while the Company contends that she should be included in the appropriate unit. Inasmuch as she directly supervises the work of the 25 or 30 inspector trimmers, and since she bears the title of floorlady, we are of the opinion that her interests are identified with management. Accordingly, we shall exclude the inspection floorlady from the unit.

Assistant foremen.—There are three employees in the plant classified as assistant foremen who, the Union contends, should be excluded as supervisory employees. The Company claims that these assistant foremen are not supervisory employees and should be included in the unit. Two of the assistant foremen in question work in the cutting department under the supervision of the assistant superintendent in charge of that department. The third assistant foreman works in the finishing department under the supervision of the departmental foreman. The record indicates that each of these assistant foremen supervises the work of a substantial number of production employees in their departments. It is also apparent from the evidence adduced at the hearing that the assistant foremen occupy a position in the plant's supervisory hierarchy similar in nature to that of the afore-mentioned floorladies in that they exercise the same authority over the employees in their departments as do the floorladies with respect to the employees whose work they supervise. Since their supervisory status is comparable to that of the floorladies, we shall exclude the two assistant foremen of the cutting department and the assistant foreman of the finishing department from the appropriate unit.

Mechanical maintenance employees.—The five mechanical maintenance employees in dispute work out of a shop located in the basement of the plant. Their function is to repair and maintain all of the mechanical equipment used in the plant. After receiving notification of needed repairs from either the departmental foremen or the machine operators, they are sent into the plant to make the necessary repairs. Each of the five mechanics has been trained by the Company, having undergone a training period of from 1 to 3 years. They are paid an hourly wage ranging from 65 cents to \$1.25 per hour, which is somewhat higher than the wages paid production workers.

The master mechanic, who is in charge of the mechanical maintenance employees, has the authority effectively to recommend changes in the status of the mechanical maintenance men. Since this group of employees comprises highly skilled mechanics whose interest in matters of collective bargaining are somewhat dissimilar from those of the production workers, and since it appears that they have expressed a desire to bargain independently with the Company, we shall exclude them from the appropriate unit.

Belt boys.—The Union contends that the two employees in the plant classified as belt boys are assistant mechanics or mechanics' helpers

and should be excluded from the unit. The Company claims that since these employees are maintenance workers, they should also be included in the unit. It is apparent that the two belt boys are actually mechanics' trainees and that in the past the Company has customarily reclassified belt boys to mechanics after their experience justified it. Since they are mechanics' trainees who will eventually become mechanics, we shall exclude the belt boys from the appropriate unit.

Watchmen-janitors.—The Union contends that the watchmen-janitors should be excluded from the appropriate unit as watchmen, while the Company maintains that these employees are regular maintenance workers who should be included in the unit. The record reveals that there are five watchmen-janitors employed in the plant. They perform janitorial work in the plant at night after production work has ceased and are responsible only to the plant superintendent. They do not punch time clocks nor do they make any formal routine reports concerning their work. Since there is little community of interest between these employees and the production employees, and since the Union desires their exclusion, we shall exclude the watchmen-janitors from the appropriate unit.

We find that all production employees employed at the Company's Lawrenceburg, Tennessee, plant, excluding all clerical employees, mechanical maintenance employees, belt boys, watchmen-janitors, master mechanic, the plant superintendent, the assistant plant superintendents, the foreman of the shipping and receiving department, the foreman of the finishing department, floorladies, assistant foremen, inspection floorlady, and any other supervisory employees having 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

Because the monthly personnel turn-over at the plant is approximately 10 percent, the Company requests that the pay-roll period immediately preceding the date of the election be used to determine eligibility to vote. The Union desires that the Board follow its usual practice by directing that the pay-roll date immediately preceding the date of the Direction of Election be determinative of eligibility to vote. We perceive no valid reason to warrant a departure from our usual practice in this matter. Accordingly, 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.

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 Salant and Salant, Inc., Lawrenceburg, Tennessee, 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 Tenth 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, C. I. O., for the purposes of collective bargaining.