

In the Matter of UNITED WOOD HEEL COMPANY and DISTRICT 50,
UNITED MINE WORKERS OF AMERICA

Case No. 14-R-865.—Decided March 30, 1944

Mr. N. W. Hartman, of St. Louis, Mo., for the Company.

Mr. George Williford, of Overland, Mo., and *Mr. Palmer Crutchfield*, of St. Louis, Mo., for District 50.

Messrs. Leland H. Harlan and *Thomas A. Grimm*, of St. Louis, Mo., for the C. I. O.

Mr. William Whitsett, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by District 50, United Mine Workers of America, herein called District 50, alleging that a question affecting commerce had arisen concerning the representation of employees of United Wood Heel Company, St. Louis, Missouri, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Keith W. Blinn, Trial Examiner. Said hearing was held at St. Louis, Missouri, on February 24, 1944. At the commencement of the hearing, the Trial Examiner granted a motion of United Shoe Workers of America, C. I. O., herein called the C. I. O., to intervene. The Company, District 50, and the C. I. O. appeared and participated in the hearing. 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.¹ All parties were afforded an opportunity to file briefs with the Board.

¹ The Trial Examiner reserved ruling on the Company's motions to dismiss the petition for lack of jurisdiction and for want of a proper showing of a substantial interest on the part of District 50. For the reasons hereinafter set forth, these motions are denied.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company, a Delaware corporation, is engaged at its plant in St. Louis, Missouri, in the manufacture of wood blocks and heels. During 1943 it purchased raw materials, consisting of lumber and celluloid products valued in excess of \$50,000, which were shipped to it from points outside the State of Missouri. All of the Company's finished products were sold within the State. During 1943 the Company sold to the Samuels Shoe Company, engaged at St. Louis, Missouri, in the manufacture of women's shoes, wood heels valued in excess of \$100,000, and to the Wolff-Tober Shoe Manufacturing Company of St. Louis, Missouri, wood heels valued at approximately \$55,000. These purchases represented approximately the total amount of wood heels used by the two shoe companies in the manufacture of women's shoes. During the same period the Samuels Shoe Company sold and shipped 97 percent of its finished product, valued at more than \$3,000,000, to points outside the State of Missouri; the Wolff-Tober Shoe Manufacturing Company sold and shipped over 82 percent of its finished product, valued at more than \$2,000,000, to points outside the State. We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.²

II. THE ORGANIZATIONS INVOLVED

District 50, United Mine Workers of America, is a labor organization admitting to membership employees of the Company.

United Shoe 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 recognize District 50 or the C. I. O. as the exclusive bargaining representative of its employees until either has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that District 50 and the C. I. O. each represents a

² See, e g., *N. L. R. B. v. Newport News Shipbuilding & Dry Dock Company*, 308 U. S. 241, *N. L. R. B. v. Cleveland-Cliffs Iron Company*, 133 F. (2d) 295 (C. C. A. 6); *N. L. R. B. v. Bradford Dyeing Assn.*, 310 U. S. 318; *Consolidated Edison Company v. N. L. R. B.*, 305 U. S. 197.

substantial number of employees in the unit hereinafter found appropriate.³

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

District 50, the C. I. O., and the Company have agreed that all production and maintenance employees, including watchmen, shipping clerks, truck drivers, and inspectors, but excluding office and clerical employees, and supervisors having the authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute an appropriate unit. The only controversy with respect to unit concerns two employees identified as floor girls or teachers in the heel-covering department. The C. I. O. contends that they are supervisory employees and should be excluded from the bargaining unit. District 50 and the Company agree that they are not supervisors and should be included. The record is clear that this classification of employees does not have power to recommend hiring, discharging, disciplinary action, or promotion. They spend the majority of their time working along with production employees. Their sole distinction is that they occasionally teach new employees. We shall include this classification of employees in the bargaining unit.

We find that all production and maintenance employees, including watchmen, shipping clerks, truck drivers, and inspectors, but excluding office and clerical employees, and all 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.

³ The Acting Regional Director reported that District 50 submitted 190 authorization cards, 89 of which bore apparently genuine original signatures; that the names of 89 persons appearing on the cards were listed on the Company's pay roll of January 12, 1944, which contained the names of 232 employees in the appropriate unit; that 69 cards were dated November 1 to December 1, 1943; that 15 were dated December 1, 1943, to January 31, 1944, and that 5 were dated February 1 to February 24, 1944. The C. I. O. submitted 88 cards, 65 of which bore apparently genuine original signatures. The names of 65 persons appearing on the cards were contained in the aforesaid pay roll; 61 cards were dated December 1, 1943, to January 31, 1944; 4 were dated February 1 to February 24, 1944. In view of these facts there is no merit in the Company's contention that there was no showing of substantial interest on the part of District 50 or that the showing was improper. In the *Matter of H. G. Hill Stores, Inc. Warehouse and Local 2-7, International Longshoremen's and Warehousemen's Union, C. I. O.*, 39 N. L. R. B. 874, in the *Matter of Budd Wheel Company and Amalgamated Plant Protection Local No. 113, UAW-CIO*, 52 N. L. R. B. 666.

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.

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 United Wood Heel Company, St. Louis, Missouri, 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 Fourteenth 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 the 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 they desire to be represented by District 50, United Mine Workers of America, or by United Shoe Workers of America, C. I. O., for the purposes of collective bargaining, or by neither.