

In the Matter of TOMLINSON OF HIGH POINT, INC. *and* LOCAL UNION
3023 (A. F. L.) FURNITURE WORKERS, U. B. C. AND J. OF A.

Case No. 5-R-1497.—Decided April 13, 1944

*Messrs. L. P. McLendon and Kenneth Brim, of Greensboro, N. C.,
for the Company.*

Mr. Joe Boyd, of High Point, N. C., for the Union.

Miss Kate Wallach, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Local Union 3023 (A. F. L.) Furniture Workers, U. B. C. and J. of A., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Tomlinson of High Point, Inc., High Point, North Carolina,¹ herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before George L. Weasler, Trial Examiner. Said hearing was held at High Point, North Carolina, on March 2, 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 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

Tomlinson of High Point, Inc., a North Carolina corporation, has its principal office and place of business in High Point, North Carolina, where, at its four plants, it is engaged in the manufacture, sale,

¹ At the hearing the Trial Examiner granted the Company's motion to amend the petition to correctly designate the Company as set forth above.

and shipment of living room, dining room, bedroom, and occasional furniture. We are here concerned with its Plant No. 2. During the year 1943, the Company purchased for use at its High Point plants, lumber, textiles, and other raw materials valued at approximately \$1,325,000, of which about 85 percent was obtained from points outside the State of North Carolina. During the same period the Company manufactured at its High Point plants finished products valued at approximately \$3,000,000, of which about 95 percent was sold and shipped to points outside the State of North Carolina.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Local Union 3023 Furniture Workers, U. B. C. and J. of A., affiliated with the American Federation of Labor, 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 its 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.²

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 requests that the unit be confined to the production and maintenance employees at Plant No. 2, whereas the Company would have the unit determined on a company-wide basis.

The Company operates four plants, three of which are located within the same city block, whereas the fourth plant is situated within a distance of 4 blocks. At Plant No. 1 the Company manufactures dining and bedroom furniture and occasional tables, all of which are assembled

² The Field Examiner reported that the Union had submitted 56 applications all of which bore apparently genuine original signatures; that the names of all persons appearing on the cards were listed on the Company's pay roll of January 28, 1944, which contained the names of 71 employees in the appropriate unit; and that the cards were dated between July 1943 and December 1943; 5 cards were undated.

The Trial Examiner reported that at the hearing the Union had submitted 10 additional application cards of which 5 bore the apparently genuine original signatures of persons whose names appear in the aforesaid pay roll; 8 of the cards were dated February 1944, and 2 March 1944.

in Plant No. 3. At Plant No. 2, the plant involved in this proceeding, unfinished chairs are made. Plant No. 4 is engaged in finishing and shipping operations of the products manufactured in Plants Nos. 1-3.

Although the Company's operations are functionally integrated under a common overall management and working conditions and rates of pay are substantially the same in all four plants, the record discloses incidents of independence for each plant. There is a separate superintendent or foreman for each plant who has authority to employ and discharge employees under his supervision, subject to approval by the personnel office. Transfers from one plant to the other on a permanent basis are negligible and temporary transferees continue to use the time clock of the plant from which they were transferred. Although the Company claims that promotions are made on a company-wide basis the record does not establish that the Company generally implies company-wide seniority. We are of the opinion that the operations of the Company are not so integrated as to preclude the employees in Plant No. 2 from constituting a separate bargaining unit.

The Company argues that the prior extent of union organization bars the Board from finding appropriate a unit limited to a single plant of the Company. The record discloses that about 8 or 10 years ago the Union attempted to organize the employees of the Company on a company-wide basis without ever achieving the establishment of a collective bargaining history with the Company. The only evidence of representation at the present time, however, is limited to the employees of Plant No. 2. Although a company-wide unit, as urged by the Company, would not be inappropriate, since the record shows that the employees at Plant No. 2 are an integrated and identifiable group that can effectively function as a unit for the purposes of collective bargaining pending a more complete organization in the other plants of the Company, we find that a unit limited to the employees at Plant No. 2 is appropriate for the purposes of collective bargaining at the present time.³ Our finding in this respect, however, does not preclude a later determination that a larger unit is appropriate when effective organization has extended to employees in other plants of the Company.⁴

The parties are in general agreement that all production and maintenance employees, including firemen, but excluding clerical employees, Bedaux supervisors (industrial engineers), foremen and assistant foremen, constitute an appropriate unit. The Union, however, would also include night watchmen and exclude inspectors, which latter em-

³ See *Matter of Swift & Co.*, 42 N. L. R. B. 1184; *Matter of Woodside Cotton Mills Co.*, 48 N. L. R. B. 518; *Matter of Dixie Mfg. Co.*, 54 N. L. R. B. 384.

⁴ *Matter of Thomasville Chair Co.*, 54 N. L. R. B. 1071.

ployees it claims fall within the category of clerical employees; the Company would include the inspectors as production employees and would exclude the night watchmen.

The duties of the two inspectors consist of examining the products of the Company at various stages of production in order to determine whether they conform to standards set up by the Company. The inspectors work under the supervision of the machine room and the chair assembly foreman, respectively. They are, like all production employees, paid on an hourly basis. One inspector spends about 20 percent of his time in keeping records, the other 10 percent. Since such a small part of their operations consists of clerical work and the majority of their time is spent on production work, we shall include them in the unit.

Since the night watchmen employed by the Company are not militarized, we find that they may properly be included within the unit of production and maintenance employees. We shall, therefore, include them.

We find that all production and maintenance employees at Plant No. 2, including inspectors, night watchmen, and firemen, but excluding clerical employees, Bedaux supervisors (industrial engineers), foremen, assistant foremen, and all 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 payroll 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 Tomlinson of High Point, Inc., High Point, 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 super-

vision 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 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 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 Local Union 3023 Furniture Workers, U. B. C. and J. of A., affiliated with the American Federation of Labor, for the purposes of collective bargaining.