

In the Matter of HILLSBORO COTTON MILLS *and* TEXTILE WORKERS UNION
OF AMERICA (CIO)

Case No. 16-R-873.—Decided May 4, 1944

Messrs. Samuels, Brown, Herman, and Scott, by Mr. Sydney Samuels, of Fort Worth, Tex., for the Company.

Mr. Lee J. Metker, of Dallas, Tex., for the Union.

Mr. Joseph W. Kulkis, 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, affiliated with the Congress of Industrial Organizations, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Hillsboro Cotton Mill, Hillsboro, Texas, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert F. Proctor, Trial Examiner. Said hearing was held at Hillsboro, Texas, on April 13, 1944. The Company and the Union 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.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Hillsboro Cotton Mill, a Texas corporation, has its principal office and place of business at Hillsboro, Texas, where it is engaged in the manufacture of cotton cloth and related cotton products. The Company annually purchases raw cotton valued at approximately \$800,000, of which practically all is purchased within the State of Texas. The

annual value of the Company's finished products amounts to approximately \$1,500,000, of which 85 percent is shipped to points outside the State of Texas.

The Company admits, and we find, that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Textile Workers Union 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

During the latter part of February 1944, the Union requested the Company to bargain collectively with it as the exclusive representative of all employees in the alleged unit. During a conference between the parties on March 14, 1944, the Company refused to accord the Union such recognition unless and until it is certified by the Board.

A statement of the Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees within the unit hereinafter found to be appropriate.¹

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 parties are in general agreement that all production and maintenance employees at the Company's plant at Hillsboro, Texas, excluding clerical and supervisory employees, constitute an appropriate unit. The Company contends, however, that Frank Deheart, a spinning frame fixer and assistant second hand on the third shift, is not a supervisory employee. It is clear from the record that Deheart, although he receives 2 cents an hour more than the other employees because, as assistant second hand, he has the added responsibility of seeing that work is properly performed on his shift, does not have the authority to hire, discharge, or make effective recommendations in this regard and consequently does not fall within our customary definition of a supervisory employee. Since Deheart's duties are principally those of a spinning frame fixer, which category the parties have agreed should be included, we shall include him in the unit.

¹ The report of the Field Examiner shows that the Union submitted 167 application for membership cards, of which 153 bear names that appear on a current pay roll of the Company, which contains the names of 262 persons within the alleged appropriate unit.

We find that all production and maintenance employees at the Company's plant at Hillsboro, Texas, including the spinning frame fixer and assistant second hand of the spinning room on the third shift, but excluding clerical employees and supervisory employees having the authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action,² 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 means of 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 Hillsboro Cotton Mill, Hillsboro, Texas, 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 Sixteenth 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 election, to determine whether or not they desire to be represented by Textile Workers Union of America (CIO), for the purposes of collective bargaining.

² The parties agree, and we find, that the following categories fall within the above definition of supervisory employees: overseer and two night overseers in the Carding Department; overseer and night man in the Spinning Department (the night man being a second hand); overseer and second hands in the Weaving Department; overseer in the Cloth Room; and the mechanic in the Engine and Yard Department.