

In the Matter of HAMRICK MILLS and TEXTILE WORKERS UNION OF AMERICA, C. I. O.

Case No. 10-R-1203.—Decided July 10, 1944

Mr. L. W. Perrin, of Spartanburg, S. C., and *Mr. Lyman Hamrick*, of Gaffney, S. C., for the Company.

Mr. C. D. Puckett, of Gaffney, S. C., and *Mr. R. C. Thomas*, of Spartanburg, S. C., for the Union.

Mr. Bernard Goldberg, 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, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Hamrick Mills, Gaffney, South Carolina, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before T. Lowry Whittaker, Trial Examiner. Said hearing was held at Spartanburg, South Carolina, on June 6, 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.

At the hearing, the Trial Examiner reserved ruling on the Company's motion to dismiss the petition. We have considered the reasons given by the Company in support of its motion and find them without merit. Accordingly, the motion is hereby denied. 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

Hamrick Mills, a South Carolina corporation, is engaged in the manufacture of sheetings, chambrays, and print cloth at its plant in 57 N. L. R. B., No 30.

Gaffney, South Carolina. During a year, it uses raw material valued at approximately \$300,000, of which 35 percent is purchased outside the State of South Carolina. The annual value of its finished products is approximately \$560,000, of which 25 percent is shipped directly to points outside the State of South Carolina.

The Company admits that it 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

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of its production and maintenance 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.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 Union seeks a unit composed of all production and maintenance employees in the Company's plant at Gaffney, South Carolina, including watchmen, yard boys, janitors, and section men, but excluding office clerical employees, ticket girls, store employees, overseers, second hands, executives and all supervisory personnel. The Company is in substantial agreement with the unit sought by the Union, except that it would also exclude watchmen, yard boys, janitors, and section men. It takes no position in respect to ticket girls.

Watchmen. There are about four unmilitarized watchmen in the plant who are engaged principally in patrolling the premises and watching for fires. In a previous proceeding between the same parties, we held that these watchmen should be included in the unit of production and maintenance employees. No evidence has been introduced in the instant case to show that there has been any change in the duties of these men. Accordingly, we shall include watchmen in the unit.²

¹ The Field Examiner reported that the Union submitted 138 application cards dated as follows: 4 in February 1944; 122 in March 1944, 12 undated; and that there were 345 employees in the unit petitioned for.

² *Matter of Hamrick Mills*, 44 N. L. R. B. 238.

Yard boys. The Company employs one yard boy, or grass cutter, to keep the yard neat and clean. He cuts the grass, tends the shrubbery around the plant, picks up paper and carries out waste. He is under the supervision of the outside foreman who, in addition, supervises a maintenance crew of 5 or 6 men, whom the parties agree should be included in the unit. Since this employee performs maintenance work, we shall include him in the unit.

Janitors. These men keep the floors of the plant and the lavatory facilities clean and in proper condition. Their duties are clearly those of maintenance employees, and we shall, therefore, include them in the unit.

Section men. In addition to fixing machines, at which they spend one-fourth of their time, section men in the spinning room and the spooling and warping department, assign operators to their tasks each morning, watch the work of the operators, report good or bad work, and recommend disciplinary action or discharge to the second hand or overseer. They also take the place of the second hand when the latter is absent or when the shift is too small to justify having a second hand. They are paid 68½ cents per hour; the second hand receives 72 cents per hour, and the ordinary operator receives a minimum of 50 cents per hour. Although section men have no authority to hire and discharge employees, we are of the opinion that the greater part of their duties is such as to endow them with supervisory status within our customary definition. We shall exclude the section men in the spinning room and in the spooling and warping department from the unit.³

Ticket girls. The plant has only one girl in this category at the present time. She acts as secretary to the overseer of the weaving department making out tickets to be attached to cloth. Since her duties are entirely clerical, we shall exclude her from the unit.

We find that all production and maintenance employees of the Company, including watchmen, yard boys and janitors, but excluding office clerical employees, ticket girls, section men,⁴ store employees, overseers, second hands, executives and all or any 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

³ See *Matter of Alma Mills, Inc.*, 24 N. L. R. B. 1, where, in an unfair labor practice proceeding involving the same parties, we held that section men were supervisory employees.

⁴ Section men in the weaving department devote all their time to making machinery repairs and admittedly have no supervisory duties. We find, in substantial agreement with the parties, that section men in the weaving department are non-supervisory employees and shall include them in the unit. The record contains no evidence concerning the duties of section men in the carding room, and we make no finding in respect to such employees; however, if their duties are similar to those of section men in the spinning room, and the spooling and warping department, discussed above, they shall be excluded.

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 pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

The Union's request to appear on the ballot as Textile Workers Union of America, C. I. O., is hereby granted.

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 Hamrick Mills, Gaffney, South 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 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 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 Textile Workers Union of America, C. I. O., for the purposes of collective bargaining.