

In the Matter of I. SIMON COMPANY, INC. and RETAIL AND WHOLESALE
SHOE EMPLOYEES UNION

Case No. 4-R-1482.—Decided September 22, 1944

Mr. Murray Simon, of New York City, for the Company.

Mr. Louis F. McCabe, of Philadelphia, Pa., for the Union.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Retail and Wholesale Shoe Employees Union, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of I. Simon Company, Inc., Philadelphia, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene M. Puver, Trial Examiner. Said hearing was held at Philadelphia, Pennsylvania, on August 22, 1944. The Company and the Union appeared at and participated in the hearing.¹ 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. All parties were afforded 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

I. Simon Company, Inc., is a New York corporation operating 16 ladies' shoe stores in the States of New York, New Jersey, and Pennsylvania. We are here concerned with its only store at Philadelphia, Pennsylvania. The store involved in the instant proceeding received

¹ Although United Retail, Wholesale and Department Store Employees of America, C. I. O., was served with Notice of Hearing it did not appear.

merchandise valued in excess of \$200,000 during 1943 from the Company's warehouse located at New York City. There is a substantial interchange of goods between the Company's New York, New Jersey, and Pennsylvania Stores.

The Company admits, for the purpose of this proceeding, that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

Retail and Wholesale Shoe Employees Union is an unaffiliated labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On or about April 15, 1944, the Union requested the Company to recognize it as the exclusive collective bargaining representative of the employees involved herein. The Company refused this request until such time as the Union is certified by the Board.

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

We find, in accord with a stipulation of the parties, that all assistant managers,³ shoe clerks, hosiery girls, floormen, wrappers, porters, and stock boys at the Philadelphia store of the Company, excluding cashier, manager, executives, and 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 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.

² The Field Examiner reported that the Union presented 9 authorization cards. There are approximately 9 employees in the appropriate unit.

³ The assistant managers are non-supervisory employees.

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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with I. Simon Company, Inc., Philadelphia, Pennsylvania, 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 Fourth 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 Retail and Wholesale Shoe Employees Union, for the purposes of collective bargaining.