

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

Case No. 10-R-1224

SUPPLEMENTAL DECISION
AND
DIRECTION OF ELECTION

September 29, 1944

On August 4, 1944, the National Labor Relations Board issued a Decision and Order in the above proceeding,¹ finding that the production and maintenance employees of Newnan Cotton Mills, Newnan, Georgia, herein called the Company, at Mill No. 2, did not constitute a unit appropriate for the purposes of collective bargaining and ordering the petition filed therein by Textile Workers Union of America, C. I. O., herein called the Union, be dismissed.

On August 14, 1944, the Union filed a motion for reconsideration of the Board's finding with respect to the appropriate unit for the Company's employees, alleging the existence of new evidence reflecting material changes in the circumstances underlying our Decision and Order herein. On September 2, 1944, the Board, having duly considered the matter, ordered the record herein reopened and provided for an appropriate hearing before Paul S. Kuelthau, Trial Examiner. Said hearing was held at Newnan, Georgia, on September 11, 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 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:

SUPPLEMENTAL FINDINGS OF FACT

I. 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.

¹ 57 N. L. R. B. 917.

58 N. L. R. B., No. 128.

A statement of the Field Examiner, introduced into evidence at the hearing held on June 17, 1944, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.²

In our Decision and Order herein, we found that no question concerning representation of employees of the Company had arisen since the bargaining unit sought to be established by the petition herein was not appropriate. For reasons appearing hereinafter in Section II, we have reconsidered that finding and now 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.

II. THE APPROPRIATE UNIT

On August 7, 1944, the city of Newnan, Georgia, enacted an ordinance requiring any person, firm, club, association, corporation, agents, officers, servants, or employees whose business it is to organize employees of any employer into any group, association, membership, society, or union must, in order to transact business within the city of Newnan, obtain a license from said city. The ordinance further provides that the fee for such license shall be \$5,000; that an applicant therefor must have been a resident of said city for a period of 12 months preceding the filing of the application; and that the issuance of the license shall be within the discretion of the mayor and aldermen of said city.

We are of the opinion that this fact, not existent at the time of our Decision and Order herein, constitutes a material change in the circumstances underlying the Decision and Order, and compels the conclusion that organization of the employees at Mill No. 1 in the city of Newnan is not feasible within a reasonable time. Accordingly, we perceive no valid reason to deny the employees at Mill No. 2 their rights to collective bargaining, the present exercise of which in the optimum appropriate unit, which would include Mill No. 1, is now made difficult or impossible by the ordinance mentioned above; and we shall find to be appropriate a bargaining unit comprised of employees of Mill No. 2 which is located outside the city.³

We find that production and maintenance employees of the Company at Mill No. 2, Newnan, Georgia, excluding executives, militarized guards, technical and office employees, the shipping clerk, second-hands, and all other supervisory employees with authority to hire,

² The Field Examiner reported that the Union submitted 224 authorization cards, all of which were dated April 1944. There are approximately 420 employees in the unit comprised of the employees at Mill No. 2.

³ Cf. *Matter of Standard Overall Company*, 53 N. L. R. B. 960.

promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, constitute a unit appropriate within the meaning of Section 9 (b) of the Act.

III. 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, as amended, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Newnan Cotton Mills, Newnan, Georgia, 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 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 Textile Workers Union of America, C. I. O., for the purposes of collective bargaining.