

In the Matter of SOUTHERN SHOE MANUFACTURING COMPANY, INC.
and UNITED SHOE WORKERS OF AMERICA, CONGRESS OF INDUSTRIAL
ORGANIZATIONS

Case No. 5-R-1699.—Decided November 1, 1944

Mr. David W. Bryon, of Hagerstown, Md., for the Company.

Mr. Robert J. Brylke, of Hagerstown, Md., for the Union.

Mr. Jack Mantel, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Shoe Workers of America, Congress of Industrial Organizations, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Southern Shoe Manufacturing Company, Inc., Hagerstown, Maryland, 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 Hagerstown, Maryland, on October 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. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. At the close of the hearing, the Company moved to dismiss the petition because of the nature of its present operations. The Trial Examiner referred the motion to the Board. For the reason hereinafter set forth, the motion is hereby denied. 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

Southern Shoe Manufacturing Company, Inc., a Maryland corporation, is engaged in the manufacture and sale of men's, women's and
59 N. L. R. B., No. 2.

children's shoes, at its sole plant located at Hagerstown, Maryland. For the year ending June 1944, the Company purchased raw materials consisting of leather, canvas, and rubber, valued in excess of \$225,212, 90 percent of which was shipped to its plant from points outside the State of Maryland. During the same period, the Company manufactured and sold finished products valued at \$404,000, 90 percent of which was shipped to points outside the State.

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

II. THE ORGANIZATION INVOLVED

United Shoe Workers 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 employees until the Union has been certified by the Board in an appropriate unit.

The Company maintains in support of its motion to dismiss the petition, that it is unable to ascertain how long it will continue its present operations. In 1941, the Company employed approximately 400 employees, but since the advent of the war, its full complement of workers has been limited to about 80 employees. Inasmuch as it is extremely speculative whether the Company will increase its production, or might in the future go out of business, we see no reason to deprive the present employees of their right to choose a collective bargaining representative.¹

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

We find, in substantial accord with the agreement of the parties, that all production and maintenance employees of the Company, including shipping clerks, but excluding office and clerical employees, timekeepers, foremen and foreladies, superintendents and all other

¹ See *Matter of Tri-State Garment Corporation*, 51 N. L. R. B. 1337, cf. *Matter of The Toledo Desk and Fixture Company*, 57 N. L. R. B. 1294.

² The Board agent reported that the Union presented 47 application-for-membership cards, and that there were 88 employees in the appropriate unit.

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 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 Southern Shoe Manufacturing Company, Inc., Hagerstown, Maryland, 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 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 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 United Shoe Workers of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Election.