

In the Matter of THE J. L. HUDSON COMPANY and UNITED RETAIL,
WHOLESALE AND DEPARTMENT STORE EMPLOYEES OF AMERICA
(CIO)

Case No. 7-R 1851.—Decided November 13, 1944

Beaumont, Smith and Harris, by *Mr. Albert E. Meder*, of Detroit, Mich., for the Company.

Mr. Homer Bell, of Detroit, Mich., for the Union.

Mr. Philip Licari, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Retail, Wholesale and Department Store Employees of America (CIO), herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of The J. L. Hudson Company, Detroit, Michigan, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Cecil Pearl, Trial Examiner. Said hearing was held at Detroit, Michigan, on October 12, 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:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The J. L. Hudson Company, a Michigan corporation having its principal offices and place of business in Detroit, Michigan, is engaged in the purchase and resale of various types of goods and commodities at a retail department store in Detroit, Michigan. During the fiscal

year ending January 31, 1942, the Company purchased goods valued at approximately \$43,000,000, of which in excess of 80 percent was shipped from points outside of the State of Michigan. During the same period, the Company's total sales were in excess of \$71,000,000, of which 1.6 percent was shipped to points outside the State of Michigan. Also during the same period, the Company's sales through its mail order department were in excess of \$500,000, of which approximately 15 percent was sold to customers outside the State of Michigan. In the same fiscal period, the Company advertised its business and merchandise through newspapers, periodicals, radio, and direct mail, at a cost in excess of \$1,500,000. Several of said newspapers and periodicals are published outside the State of Michigan, and each of said radio stations has a coverage of, and carries advertising to, several States other than the State of Michigan. The business operations of the Company are approximately the same today as for the aforesaid fiscal period.

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

II. THE ORGANIZATION INVOLVED

United Retail, Wholesale and Department Store Employees 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

On July 27, 1944, the Union advised the Company that it represented a majority of certain of the Company's employees and wished to be recognized as their sole bargaining representative. The Company refused to recognize the Union until it is certified by the National Labor Relations Board in an appropriate unit.

A statement of a Field Examiner for the Board, 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 of "all delivery drivers and helpers, excluding clerical and supervisory employees." The Company's posi-

¹ The Field Examiner reported that the Union submitted 79 authorization cards, of which 67 were dated between May and June 1944, and 12 were undated. He also reported that there were 147 employees in the alleged appropriate unit.

tion is “. . . that the appropriate unit is the store as a whole. Without leaving that position, . . . the appropriate unit should be the delivery department. . .”

“ On December 22, 1942, upon a petition filed by the Union, and after a hearing in which all parties to the present proceeding participated, the Board issued a Decision and Direction of Election in which it found appropriate a unit substantially the same² as that which the Union now seeks,² rejecting the contention which the Company presently makes with respect to the appropriate unit. No additional evidence has been presented in this proceeding to warrant a change in the determination then made by the Board.

We find that all the Company's delivery drivers and helpers, excluding clerical employees and all 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 The J. L. Hudson Company, Detroit, Michigan, 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 Seventh 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

² *Matter of The J. L. Hudson Company*, 46 N. L. R. B. 225. In this case the Board found appropriate a unit “. . . of all truck drivers and helpers of the Company, including drivers who transport merchandise from the store to the delivery station . . .” This unit covered the same employees presently sought by the Union.

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 United Retail, Wholesale and Department Store Employees of America (CIO), for the purposes of collective bargaining.