

In the Matter of INGLE FULL FASHIONED HOSIERY MILLS, INC., and
AMERICAN FEDERATION OF HOSIERY WORKERS, AFFILIATED WITH THE
C. I. O., THROUGH THE TEXTILE WORKERS UNION OF AMERICA

Case No. 5-R-1676.—Decided November 27, 1944

Mr. Kenneth M. Brimm, of Greensboro, N. C., and *Mr. Thomas D. Cooper*, of Burlington, N. C., for the Company.

Mr. Myles H. Cunningham, of Durham, N. C., and *Mr. W. Cedric Stallings*, of Charlotte, N. C., for the Union.

Mr. Herbert C. Kane, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by American Federation of Hosiery Workers, affiliated with the C. I. O., through the Textile Workers Union of America, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Ingle Full Fashioned Hosiery Mills, Inc., Gibbonsville, North Carolina, 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 Burlington, North Carolina, on October 24, 1944. The Company and the Union appeared and participated.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 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

Ingle Full Fashioned Hosiery Mills, Inc., is a North Carolina corporation having its office and sole place of business at Gibbonsville, North

¹ United Textile Workers of America, A. F. of L., was served with Notice of Hearing but did not appear.

Carolina. It is engaged in the manufacture of ladies full fashioned hosiery as commission knitters exclusively for Chadbourn Hosiery Mills, Inc. All of the raw materials used by the Company consisting of rayon and cotton yarn, are furnished by, and all the finished products are returned to Chadbourn Hosiery Mills, Inc., a North Carolina corporation, having its office and sole place of business at Burlington, North Carolina.² During the 12 months preceding this hearing, Chadbourn purchased over \$50,000 worth of raw materials, rayon and cotton yarn, of which over 80 percent was purchased outside the State of North Carolina, and of the finished products manufactured and returned to it by the Company, valued at over \$150,000, sold and shipped over 90 percent outside the State of North Carolina.

We find that the Company is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

American Federation of Hosiery Workers, affiliated with the C. I. O., through the Textile Workers Union of America, 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.

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.³

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 parties agree generally that a unit comprising all the employees of the Company, including the watchman, but excluding office, clerical employees, the foreman, and all other supervisory employees is appropriate. However, the Union would exclude and the Company include the fixer, the forelady, and the wife of the foreman.

W. W. Ingle, a fixer, is one of the three salaried employees employed by the Company.⁴ As does the foreman on the day shift, Ingle fixes

² Chadbourn Hosiery Mills, Inc., owns the majority of the stock of the Company.

³ The Field Examiner reported that the Union submitted 28 cards; that there were approximately 47 employees in the appropriate unit; and that all the cards were dated August 1944.

⁴ Ingle is a member of the family which owned the Company prior to the time Chadbourn Hosiery Mills, Inc., obtained controlling interest therein.

machines on the night shift; in addition he turns the production cards of the employees into the office at the end of his shift. Although the Company maintains that Ingle is not a supervisory employee and that there is no one in charge of the night shift, it appears that Ingle is the only employee on the night shift who has duties comparable to those of the day foreman. We are of the opinion that the duties of Ingle are such as warrants his exclusion from the unit; we shall exclude him.

Ethel Holt is designated on the Company's pay roll as a forelady; she, like Ingle, and the day foreman, is paid on a salary basis. Her duties consist of inspecting, sorting, and grading the finished hosiery, work normally compensated for on a piece-work basis. The Company maintains that Holt was given the title forelady and permitted to remain on a salary basis, because she was secretary of the Company before Chadbourn Hosiery Mills, Inc., acquired a majority of the Company's stock, and because the Fair Labor Standards Act prohibited a decrease in her compensation. While the record does not establish that Holt is a supervisory employee within our customary definition thereof, we are of the opinion that her duties and interests differ substantially from those of the other employees of the Company. We shall exclude her from the unit.

Ruth Johnson Buckner, the wife of the day foreman, is employed in various departments at topping, looping, and seaming; she also does some fixing on the seamers and loopers. Occasionally, she trains learners and, under the supervision of the Company's sole clerical employee, spends less than half of her time working on reports of defective work. At times, she is sent to the post office for the mail, an assignment also made to other employees when the clerical employee is absent or otherwise unavailable. Buckner is paid on an hourly rather than a piece-rate basis because her duties require frequent shifting from department to department. Since Buckner is engaged primarily in production duties and occupies no supervisory status, we shall include her in the unit.

We find that all production and maintenance employees of the Company including the watchman, but excluding the fixer, the forelady, the foreman, and all 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 an election by secret ballot among the em-

ployees 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 Ingle Full Fashioned Hosiery Mills, Inc., Gibbonsville, North 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 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 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 American Federation of Hosiery Workers, affiliated with the C. I. O., through Textile Workers Union of America, for the purposes of collective bargaining.