

In the Matter of MELROSE HOSIERY MILLS, INC., FULL FASHIONED PLANT, KIVETT DRIVE and UNITED TEXTILE WORKERS OF AMERICA, A. F. L.

Case No. 5-R-1678.—Decided November 28, 1944

Mr. Kenneth M. Brim, of Greensboro, N. C., and *Messrs. Chas. L. Amos, Joe Boyd*, and *W. E. Mitchell*, of High' Point, N. C., for the Company.

Mr. Albert W. Coax, of High Point, N. C., and a committee of 5 employees,¹ for the Union.

Miss Ruth E. Bliefeld, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Textile Workers of America, A. F. L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Melrose Hosiery Mills, Inc., Full Fashioned Plant, Kivett Drive, High Point, 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 High Point, North Carolina, on October 25, 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 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

Melrose Hosiery Mills, Inc., a North Carolina corporation, is engaged in the manufacture of women's stockings and full-fashioned hose at High Point, North Carolina. In connection with its operation the Company operates two plants, a seamless plant, known as the

¹The committee was composed of the following employees: Garvin Strickland, Miss Katherine Stiles, Mrs. Havanah Allen, John Travis, and W. S. Lewis.

English Street plant, where men's hose and misses' anklets are made, and the Kivett Drive plant, which is the only plant involved in this proceeding, where full fashioned ladies hose are manufactured. Both plants are located in High Point, North Carolina. The Company purchases raw materials consisting of rayon and cotton yarn and mercerized materials for use in its manufacturing operations. During the past year immediately preceding the date of the hearing the Company's purchases of raw materials amounted to approximately \$312,000, approximately 55 percent of which was purchased and shipped to its plants from points outside the State of North Carolina. During the same period the Company's finished products were valued at approximately \$780,000, approximately 98 percent of which was sold and shipped to points outside the State of North Carolina.

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

II. THE ORGANIZATION INVOLVED

United Textile Workers of America, affiliated with American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On August 15, 1944, the Union requested recognition as the exclusive bargaining representative of the Company's production and maintenance employees, stating that it represented a majority of the Company's employees in such a unit. The Company, on August 16, 1944, advised the Union that it doubted the Union's claim and stated that it would not recognize 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.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

The Union requests a unit consisting of all production and maintenance employees at the Kivett Drive plant, excluding foremen, timekeepers, foreladies, a fixer named Marvin Workman, clerical employees, and all or any other supervisory employees with the right to

² The Field Examiner reported that the Union submitted 88 application for membership cards; that the names of 61 persons appearing on the cards were listed on the Company's pay roll, which contained the names of 133 employees in the appropriate unit; and that all the cards were dated August 1944.

hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action. The Company is in general agreement with the unit requested by the Union, except that it would include therein the fixers, the forelady, and the timekeeper.

The timekeeper, whom the Company desires to include in the unit, spends about 90 percent of her time making out tickets for the legger operators. This work involves computing the number of hours worked by the various piece-rate employees, and the number of pieces completed and noting such computations on record sheets which are sent to the English Street plant of the Company for the purpose of preparing the pay-roll record. A portion of the timekeeper's work is done in the plant, and the balance in the office of the superintendent. The timekeeper is paid at a lower rate than the piece workers. We shall exclude the timekeeper from the appropriate unit, since it appears that she is a clerical worker.

The Union desires the exclusion, and the Company the inclusion of the forelady. The forelady works directly for the foreman in the finishing department. She inspects the work of the pairers, and brings defective work to the foreman, but she makes no recommendation concerning the employees responsible for such defective work. Her rate of pay is not as high as that of the piece workers, but is about the same as that of the hourly paid workers. The forelady has no supervisory authority of any kind, nor can she recommend the discharge or disciplining of any employees. We shall, therefore, include the forelady in the appropriate unit, since it appears that she is not a supervisor within our usual definition.³

The Company employs two fixers, both of whom it desires to include in the unit. The Union, however, desires the exclusion of one fixer, Marvin Workman, and agrees to the inclusion of the other. The record shows that Workman is a mechanic, and is responsible for the repair of the looping and seaming machines. He spends about 15 percent of his working time repairing machines, and about 60 percent of his time carrying work from one machine to another. He is paid less than the average rate of knitters, who are piece-work employees. Nevertheless, the testimony indicates that he has the authority to recommend the hiring and discharging of employees and has exercised that right in the past, and that the superintendent of the plant has acted upon his recommendations. Since it appears that Workman is a supervisory employee within our usual definition, we shall exclude him from the appropriate unit under the designation of supervisory fixer.

³ The title forelady will not appear in our designation of the appropriate unit, since it appears that such title is a misnomer.

The other fixer, Thomas Redding, is employed as a fixer on knitting machines, and spends all his time on repair work. He has no authority to hire, discharge, or discipline employees, and will therefore be included in the unit in accordance with the desire of both parties herein.

We find that all production and maintenance employees including the shipping clerk, but excluding the timekeeper, the supervisory fixer, the foremen, and all or 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 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 Melrose Hosiery Mills, Inc., Full Fashioned Plant, Kivett Drive, High Point, 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 United Textile Workers of America, A. F. L., for the purposes of collective bargaining.