

In the Matter of DUBUQUE GARMENT COMPANY, INC., and INTERNATIONAL GARMENT WORKERS UNION, A. F. OF L.

Case No. 18-R-1155.—Decided December 30, 1944

Mr. David Silbert, of Chicago, Ill., for the Company.

Mr. Harold W. Schwartz, of Chicago, Ill., and *Mr. John Grogan*, of Dubuque, Iowa, for the Union.

Mr. Erwin A. Peterson, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by International Ladies' Garment Workers Union, A. F. of L., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Dubuque Garment Company, Inc., Dubuque, Iowa, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Stephen M. Reynolds, Trial Examiner. Said hearing was held at Dubuque, Iowa, on December 1, 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

Dubuque Garment Company, Inc., an Iowa corporation, with its principal office and place of business at Dubuque, Iowa, is engaged in the manufacture of ladies' house dresses. All of the raw materials used by the Company are shipped to the Company from points outside the State of Iowa and all of its finished products are shipped to

points outside the State of Iowa. The Company started operations in August 1944, and the estimated annual volume of business will be in excess of \$50,000.

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

II. THE ORGANIZATION INVOLVED

International Ladies' Garment Workers Union, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The parties stipulated that on or about October 15, 1944, the Union requested recognition as the statutory bargaining agent of the Company's employees. The Company declined to recognize the Union unless and until the Union is certified by the Board.

A statement of a Field Examiner, 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 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 and the Company are agreed that an appropriate unit should be composed of all production employees of the Company, excluding maintenance employees, office and factory clerical employees, shipping clerk, production clerks, watchman, janitors, foreladies, and all supervisors having the right to hire or discharge, or to make effective recommendations as to hiring or discharging, or changes in the status of employees. We see no reason to depart from the agreed inclusions and exclusions. The Company employs two final examiners, one of whom it would exclude and the other include. The Union would include both of them. The final examiners are paid the same hourly rate as the rest of the production employees. The record is clear that their duties are purely inspection of the product for workmanship and that they possess no supervisory powers whatsoever. Therefore, we shall include them in the bargaining unit.

We find that all production employees of Dubuque Garment Company, Inc., Dubuque, Iowa, including final examiners, but excluding all maintenance employees, office and factory clerical employees, ship-

¹ The Field Examiner reported that the Union submitted 85 authorization cards; and that there are approximately 100 employees in the appropriate unit.

ping clerks, production clerks, watchmen, janitors, foreladies, 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 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 the 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 Dubuque Garment Company, Inc., Dubuque, Iowa, 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 Eighteenth 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 International Ladies' Garment Workers Union, A. F. of L., for the purposes of collective bargaining.

CHAIRMAN MILLIS took no part in the consideration of the above Decision and Direction of Election.