

In the Matter of DORLEXA DYEING AND FINISHING COMPANY and TEXTILE WORKERS UNION OF AMERICA, C. I. O.

Case No. 1-R-2222.—Decided February 27, 1945

Mr. Fisher Abramson, of New Bedford, Mass., for the Company.

Mr. J. W. Belanger, of Boston, Mass., and *Mr. Joseph Novo*, of Woonsocket, R. I., for the T. W. U. A.

Messrs. Raoul Vandal and *Joseph Bell*, of Woonsocket, R. I., for the I. T. U.

Mr. Louis Cokin, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Textile Workers Union of America, C. I. O., herein called the T. W. U. A., alleging that a question affecting commerce had arisen concerning the representation of employees of Dorlexa Dyeing and Finishing Company, Woonsocket, Rhode Island, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert E. Greene, Trial Examiner. Said hearing was held at Woonsocket, Rhode Island, on January 31, 1945. At the commencement of the hearing the Trial Examiner granted a motion of Industrial Trades Union of America, herein called the I. T. U., to intervene. The Company, the T. W. U. A., and the I. T. U. appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. During the hearing, counsel for the Company moved to dismiss the petition. The Trial Examiner reserved ruling thereon. The motion is denied for the reasons stated in Section III, *infra*. 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:

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FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Dorlexa Dyeing and Finishing Company is a partnership operating a plant at Woonsocket, Rhode Island, where it is engaged in the dyeing and finishing of cloth. During the 6-month period preceding the hearing, the Company purchased raw materials valued at about \$60,000, all of which was shipped to it from points outside the State of Rhode Island. During the same period the Company received about \$300,000 for its services, all of which was performed for concerns within the State of Rhode Island. The latter concerns shipped all goods worked upon by the Company to points outside the State of Rhode Island.

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

II. THE ORGANIZATIONS INVOLVED

Industrial Trades Union of America is a labor organization, admitting to membership employees of the Company.

Textile Workers Union of America is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize the T. W. U. A. or the I. T. U. as exclusive collective bargaining representative of its employees until such time as one or the other is certified by the Board.

The Company takes the position that no election should be directed at this time for the reason that in a consent election conducted on March 20, 1944, and an ordered election conducted on November 24, 1944, a majority of its employees had voted against representation by any labor organization. Eleven months and 3 months, respectively, have elapsed since the consent election and the ordered election. The T. W. U. A. did not participate in the election of November 24, 1944. The record discloses that the T. W. U. A. has application cards bearing the names of a substantial number of employees. All of these cards are dated subsequent to the election of November 24, 1944.¹ Since no collective bargaining representative was chosen as a result of the election of November 24, 1944, and in view of the fact that a substantial number of the Company's employees appear to have indicated since

¹ According to a statement introduced into evidence at the hearing, the T. W. U. A. submitted 36 application cards. There are approximately 54 employees within the appropriate unit. The I. T. U. submitted 30 application cards.

that election a desire for representation by the T. W. U. A., which did not participate in that election, we believe that the policies of the Act will best be effectuated by conducting an election on the present petition.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 T. W. U. A. urges that all production and maintenance employees of the Company, excluding executives, supervisors, assistant supervisors, and office and clerical employees, constitute an appropriate unit. The only controversy with respect to the unit concerns two named employees.

Stanley is employed in the Company's drug room weighing out dye set-ups. The T. W. U. A. contends that he is a supervisory employee. The record indicates that Stanley does not have any authority to recommend the hire, discharge, promotion, or discipline of any employee. We shall include him in the unit.

The T. W. U. A. contends that Wojick is a clerical employee and should be excluded from the unit. The record indicates that Wojick spends all but 2 working hours daily performing clerical duties in the boss dyer's office. We shall exclude Wojick as a clerical employee.

We find that all production and maintenance employees of the Company, excluding executives, office and clerical employees, supervisors, assistant supervisors, and 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 means of 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

² *Matter of New York Central Iron Works, Hagerstown, Maryland*, 37 N. L. R. B. 894.

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 Dorlexa Dyeing and Finishing Company, Woonsocket, Rhode Island, 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 First 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 any 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 they desire to be represented by Textile Workers Union of America, C. I. O., or by Industrial Trades Union of America, for the purposes of collective bargaining, or by neither.