

In the Matter of CANNEL & CHAFFIN, INC., EMPLOYER AND PETITIONER
and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN AND HELPERS, LOCAL 196, UNION

Case No. 21-RM-105.—Decided August 26, 1949

DECISION

AND

ORDER

Upon a petition duly filed, a hearing was held before Ben Grodsky, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Houston and Gray].

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The labor organization involved claims to represent employees of the Employer.

3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act, for the following reasons:

The Employer requests a unit of all its employees, excluding managerial employees and supervisors, or, in the alternative, all employees in its main store on Wilshire Boulevard. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local 196, herein called the Teamsters, seeks to represent a unit of drivers, drivers' helpers, furniture finishers, furniture handlers, and shipping and receiving clerks at the retail store. There is no history of collective bargaining for any of the Employer's employees.

The Employer is engaged in the retail sale and manufacture of furniture and furnishings, and the interior decoration of homes, offices and clubs. In connection with its business, it operates a retail store, a workshop for the manufacture of custom made furniture and furnishings, and a storage warehouse. There are 42 persons employed

85 N. L. R. B., No. 150.

at the store, and 21 at the workshop. There are no employees at the warehouse.

The Employer's entire operations are conducted under a unified management. All company policies, privileges, and benefits are determined at the store, and affect all employees alike regardless of location. All employees have uniform working conditions.

At the workshop, which is about 1½ miles from the retail store, upholstered furniture, draperies, hangings, bedspreads, and similar articles are manufactured and fabricated. The work done at the workshop originates with and is followed through to its completion by store personnel.

There are two drivers, one drivers' helper, two furniture finishers, three furniture handlers, and four shipping and receiving clerks employed at the store, and one shipping and receiving clerk employed at the workshop. Of this group the Teamsters would exclude two furniture handlers who work in the Employer's display department at the store, the shipping and receiving clerk at the workshop, and three shipping and receiving clerks at the store.¹ Those employees whom the Teamsters would exclude from the unit work under the same supervision and do the same work as those in the same classifications whom it would include. They have the same working conditions, and share in all benefits available to all store and workshop employees.

The unit sought by the Teamsters is a heterogeneous grouping of certain store employees some of whose interests and working conditions are similar to those of other store and workshop employees whom it would arbitrarily exclude. The Teamsters contends that the store and workshop employees whom it wishes to exclude from the unit are within the jurisdiction of other labor organizations. The Board, however, has held that the jurisdictional inability of a union to represent certain employees is no ground for excluding them if their inclusion in the unit would otherwise be appropriate.²

The employees sought by the Teamsters do not constitute a traditional bargaining group. Moreover, the proposed unit does not include all employees doing the same work and having similar interests. We therefore find that the unit sought by the Teamsters is inappropriate.³

¹ The Teamsters would also exclude from its proposed unit the upholsterers, seamstresses, and installers at the workshop, and the sales clerks, estimator, designer, sales contact men, and clerical employees at the store.

² *Matter of The Robinson-Schwenn Store*, 83 N. L. R. B. 35; *Matter of Muskogee Dairy Products Co.*, 85 N. L. R. B. 520; *Matter of Beatrice Foods Company*, 84 N. L. R. B. 512; *Matter of Bloomingdale Brothers, Inc.*, 81 N. L. R. B. 1252.

³ *Matter of George Jensen, Inc.*, 77 N. L. R. B. 760; *Matter of Louis Pizitz Dry Goods Company*, 80 N. L. R. B. 1442; *Matter of Indianapolis Times Publishing Company*, 82 N. L. R. B. 1385; *Matter of Charles Smith Nash Company*, 83 N. L. R. B. 511.

As the Teamsters' request for recognition was for a unit which we have found to be inappropriate, we find that no question of representation exists.⁴ Accordingly, we shall dismiss the petition.

ORDER

IT IS HEREBY ORDERED that the petition filed in the instant matter by Cannell & Chaffin, Inc., be, and it hereby is, dismissed.

⁴ *Matter of Standard-Coosa-Thatcher Company*, 80 N. L. R. B. 50.