

In the Matter of A. RIVETZ Co., EMPLOYER and AMALGAMATED  
CLOTHING WORKERS OF AMERICA, C. I. O., PETITIONER

*Case No. 1-RC-1242.—Decided December 29, 1949*

DECISION  
AND  
DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before Torbert H. Macdonald, 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 [Members Houston, Reynolds, and Murdock].

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 certain employees of the Employer.
3. A 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.
4. There is no disagreement as to the general composition of the unit of production employees. There is a question as to the inclusion of certain employees.

*Homeworkers*

The Employer seeks to include, while the Petitioner would exclude, homeworkers from the proposed production unit. There are 13 homeworkers and 7 plant-production employees in the hire of the Employer. All the employees, at the plant or at home, are paid on a piece rate basis. All appear to be covered by the Employer's Blue Cross insurance arrangement and other insurance. Social security and income tax deductions are made from both home and factory workers. Two or three of the employees now working at home previously worked in the plant.

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Work is delivered to the homeworkers' homes by the Employer's truck and picked up when completed. Rarely does an employee working at home have occasion to visit the factory. The only supervision over homeworkers except for new employees, is over their work rather than over them personally. Some of the homeworkers have been in the employ of the Employer for as long as 10 years. All of them are licensed and under the supervision of the State of Massachusetts. On these facts and on the record as a whole, we find that there is insufficient community of interest between the homeworkers and the plant employees to warrant the inclusion of the homeworkers in the unit.<sup>1</sup>

*William Sugarman*

The Employer questions the inclusion of this employee in the proposed unit because he is a part-time worker. Since Sugarman does a type of work admittedly included in the unit, he will necessarily be represented by the Petitioner if it wins the election we are directing in this proceeding. We find, therefore, that Sugarman is in the unit. The separate question as to whether he is eligible to vote in the election is discussed in paragraph numbered 5, below.

We find that all production employees of the Employer at its Boston, Massachusetts, plant, excluding office and clerical employees, salesmen, truck drivers, maintenance employees, and guards, professional employees, and supervisors as defined in the Act, constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

5. There is a dispute, heretofore mentioned in paragraph 4, as to the status of William Sugarman. This employee works on a part-time basis. He does four-in-hand pressing, a regular production operation. Though there are other pressers, Sugarman is the only one doing this particular type of pressing. He has been in the employ of the Employer for almost 2 years. During 1948, he averaged 12 to 15 hours per week. He apparently receives the same insurance and Blue Cross benefits as do the other employees, and, like them, is paid on a piece-rate basis. We are of the opinion that Sugarman's tenure is sufficiently regular and substantial to entitle him to participate in the selection of the bargaining representative.<sup>2</sup> We therefore find that Sugarman is eligible to vote in the election hereinafter ordered.

<sup>1</sup> See *Radiant Lamp Corporation*, 74 NLRB 1338; *Howell Electric Motors Company*, 59 NLRB 1171.

<sup>2</sup> See *Providence Public Market Company*, 79 NLRB 1482.

## DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, an election by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of the Regional Director for the Region in which this case was heard, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations, among the employees in the unit found appropriate in paragraph numbered 4, above, who were employed during the pay-roll period immediately preceding the date of this Direction of Election, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, 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, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented, for purposes of collective bargaining, by Amalgamated Clothing Workers of America, C. I. O.