

In the Matter of DAVISVILLE HOSIERY MILL, INC., EMPLOYER and  
MARTIN M. RITTER, ET AL., PETITIONER and AMERICAN FEDERATION  
OF HOSIERY WORKERS'<sup>1</sup> UNION

Case No. 4-RD-42.—Decided February 21, 1950

DECISION

AND

ORDER

Upon a petition for decertification duly filed, a hearing was held before E. Don Wilson, 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 Reynolds].

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 The Petitioners assert that the Union no longer represents employees of the Employer.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:

Section 9 (c) (1) (A) (ii) of the Act empowers the Board to investigate a petition for decertification of a "labor organization which has been *certified* or is being *currently recognized*" by the Employer (emphasis supplied). In the present case the Union has not been certified, and there is no basis in the record for finding that the Union is "currently recognized" by the Employer as the representative of the employees.

The record does show that the Employer and the Union executed a contract which expired on August 31, 1949. Thereafter, the employees went on strike. On or about January 4, 1950, a majority of the employ-

<sup>1</sup> Although the Union was properly served with a notice of hearing, it failed to appear at the hearing.

ees returned to work, and by the time of the hearing in this case the picket line had been withdrawn. There is no evidence of dealings between the Employer and the Union after August 31, 1949.

As neither of the requisites prescribed by Section 9 (c) (1) (A) (ii) of the Act is present in this case, it is clear that the Board is not empowered to entertain a decertification petition at this time.<sup>2</sup> Accordingly, we shall dismiss the petition.

### ORDER

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.

<sup>2</sup> *Marine Fabricators Company*, 81 NLRB 930, and cases cited therein.