

In the Matter of A. J. TOWER COMPANY, CARTER DIVISION *and* AMALGAMATED CLOTHING WORKERS OF AMERICA, C. I. O.

Case No. 1-R-2353.—Decided May 10, 1945

Mr. John T. Noonan, of Boston, Mass., for the Company.

Mr. George E. Rower, of Boston, Mass., for the Union.

Mr. Louis Colvin, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Amalgamated Clothing Workers of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of A. J. Tower Company, Carter Division, Beverly, Massachusetts, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Samuel G. Zack, Trial Examiner. Said hearing was held at Salem, Massachusetts, on April 20, 1945. The Company and the Union appeared, participated, and 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 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

A. J. Tower Company is a Massachusetts corporation operating a plant at Beverly, Massachusetts, known as the Carter Division, where it is engaged in the manufacture of waterproofed oil clothing. During the six months preceding the hearing about \$5,000 worth of the raw materials used by the Company at its Carter Division was shipped to it from points outside the Commonwealth of Massachusetts. Dur-

ing the same period the Company shipped products from its Carter Division to points outside the Commonwealth of Massachusetts valued in excess of \$250,000.

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

II. THE ORGANIZATION INVOLVED

Amalgamated Clothing Workers 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

During March 1945 the Union requested the Company to recognize it as exclusive collective bargaining representative of the employees at the Carter Division. The Company refused this request until such time as the Union is certified by the Board.

A statement of a Field Examiner of the Board, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found to be appropriate.¹

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 Union urges that all production employees at the Carter Division of the Company, including shipping and receiving department employees, but excluding office and clerical employees, executives, engineers and firemen in the steam plant, and supervisors, constitute a unit appropriate for the purposes of collective bargaining. The Company did not take any position with respect to the unit. Evidence introduced at the hearing indicates that the employees claimed by the Union constitute a well-defined homogeneous group.

We find that all production employees at the Carter Division of the Company, including shipping and receiving department employees, but excluding office and clerical employees, engineers and firemen in the steam plant, executives, and all 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.

¹ The Field Examiner reported that the Union presented 61 authorization cards bearing the names of persons who appear on the Company's pay roll of March 9, 1945. There are approximately 92 employees in the appropriate unit.

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, 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 A. J. Tower Company, Carter Division, Beverly, Massachusetts, 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 Sections IV, above, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during the 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 or not they desire to be represented by Amalgamated Clothing Workers of America, C. I. O., for the purposes of collective bargaining.

MR. JOHN M. HUSTON took no part in the consideration of the above Decision and Direction of Election.