

In the Matter of WILEY MFG. INC., EMPLOYER and LOCAL 154, UNITED  
FURNITURE WORKERS OF AMERICA, CIO, PETITIONER

Case No. 1-RC-1674.—Decided November 10, 1950.

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Joseph Lepie, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.<sup>1</sup>

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

1. The business of the Employer:

The Employer, a Massachusetts corporation, with a plant in Gardner, Massachusetts, manufactures doll carriages and rocking horses. During the year preceding the date of the hearing, the Employer purchased approximately \$75,000 worth of raw materials, of which 50 percent was obtained from sources outside the State. During the same period, the Employer sold all its finished products, which were valued at approximately \$300,000 to Thayer, Inc., a Massachusetts corporation doing business in Gardner, Massachusetts. Thayer, Inc., is engaged in the purchase and sale of toys and various types of furniture. During the year preceding the date of the hearing, Thayer, Inc., purchased in excess of \$4,000,000 worth of manufactured products, of which it sold in excess of 50 percent to customers outside the State.

Upon the foregoing facts, we find, contrary to the Employer's contention that it is engaged in commerce within the meaning of the National Labor Relations Act. We further find, in view of the fact that the Employer annually sells necessary goods valued in excess of \$50,000 to Thayer, Inc., which in turn annually ships outside the State goods valued in excess of \$25,000, that it will effectuate the policies of the Act for the Board to assert jurisdiction in this case.<sup>2</sup>

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

<sup>1</sup> At the hearing, the Employer moved to dismiss the petition upon the ground that the Congress of Industrial Organizations, the parent body of the Petitioner herein, had not complied with Section 9 (h) of the Act. The hearing officer reserved ruling on the motion for the Board. For reasons set forth in *J. H. Rutter-Rez Manufacturing Company, Inc.*, 90 NLRB 130, the motion to dismiss is hereby denied. It may be added that the Board's records show that the CIO was in compliance with the filing requirements of the Act at the time the petition herein was filed and is also currently in compliance.

<sup>2</sup> *Hollow Tree Lumber Company*, 91 NLRB 635.

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.<sup>3</sup>

4. The appropriate unit:

The parties are in agreement that all the Employer's production and maintenance employees constitute an appropriate unit. There is disagreement, however, as to the inclusion of the floorlady, the sweepers, and the firemen-watchmen.

*The floorlady:* The Employer contends that the floorlady should be included because she devotes all her time to production work. The record, however, shows that the floorlady is the wife of the president of the Employer. In view of this circumstance, we shall exclude the floorlady.<sup>4</sup>

*The sweepers:* The Employer's two sweepers work at the plant on Saturdays from 7 a. m. to 12 noon. It is their duty to clean and sweep the plant. During the week, the sweepers attend school. As they are regular part-time employees, performing maintenance work, we shall include the sweepers.<sup>5</sup>

*The firemen-watchmen:* There are three firemen-watchmen in the Employer's employ whose names are John Dupre, Theodore LeBlanc, and John Jarmusik. The record shows that Dupre and LeBlanc devote about 40 percent of their time to their duties as watchmen and the balance of their time to their duties as firemen whereas Jarmusik spends half his time as a fireman and the other half as a watchman. As none of these three employees spend more than 50 percent of his time as a guard, we shall include them.<sup>6</sup>

We find that all production and maintenance employees at the Employer's Gardner, Massachusetts, plant, including sweepers, John Dupre, Theodore LeBlanc, and John Jarmusik, but excluding floorlady Mary Wiley, clerical employees, professional employees, and all guards and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

[Text of Direction of Election omitted from publication in this volume.]

<sup>3</sup> The Employer contends that no question concerning representation exists because the Petitioner did not request recognition of the Employer before filing its petition with the Board. For the reasons stated in *Advance Pattern Company*, 80 NLRB 29, we find this contention to be without merit.

<sup>4</sup> *Rosedale Passenger Lines, Inc.*, 85 NLRB 527.

<sup>5</sup> *The P. B. Magrane Store, Inc.*, 84 NLRB 345; *Morrison Milling Company*, 83 NLRB 800.

<sup>6</sup> *Waldensian Hosiery Mills, Inc.*, 83 NLRB 742; *Steelworld Equipment Company, Inc.*, 76 NLRB 831. The decisions in *Texas Knitting Mills, Inc.*, 90 NLRB No. 106, and *Cornell-Dubilier Electric Corp.*, 90 NLRB No. 67, are hereby overruled insofar as they conflict with the instant decision.