

In the Matter of HARRY LINSK, KATE LINSK, JOSEPH LINSK,¹ AND ABRAHAM LINSK, INDIVIDUALLY AND AS CO-PARTNERS, TRADING AS H. LINSK & CO. and SOUTH JERSEY JOINT BOARD OF THE INTERNATIONAL LADIES' GARMENT WORKERS UNION, AFL

Case No. 4-C-1424.—Decided June 11, 1945

DECISION

AND

ORDER

On November 24, 1944, the Trial Examiner issued his Intermediate Report in the above-entitled proceeding, finding that the respondent had engaged in, and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take certain affirmative action, as set forth in the Intermediate Report attached hereto. Thereafter, the respondent filed exceptions to the Intermediate Report and a brief in support of the exceptions. No request for oral argument before the Board at Washington, D. C., was made by any of the parties. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the respondent's exceptions and brief, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations of the Trial Examiner.

ORDER

Upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Harry Linsk, Kate Linsk, Joseph Linsk, and Abraham Linsk, individually and as co-partners, trading as H. Linsk & Co., its agents, successors, and assigns, shall:

1. Cease and desist from in any manner interfering with, restraining, or coercing its employees in the exercise of the right to self-organization, to form labor organizations, to join or assist South Jersey Joint Board of the International Ladies' Garment Workers Union, AFL, or any other labor

¹ The name of Joseph Linsk was inadvertently omitted from the caption of the Intermediate Report 62 N. L. R. B., No. 44.

organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action, which the Board finds will effectuate the policies of the Act:

(a) Post at its plant at Clayton, New Jersey, copies of the notice attached hereto, marked "Appendix A." Copies of said notice, to be furnished by the Regional Director for the Fourth Region, shall, after being duly signed by the respondent's representative, be posted by the respondent immediately upon receipt thereof, and maintained by it for sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the respondent to insure that said notices are not altered, defaced, or covered by any other material; and

(b) Notify the Regional Director for the Fourth Region in writing, within ten (10) days from the date of this Order, what steps the respondent has taken to comply herewith.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Order.

"APPENDIX A"

NOTICE TO ALL EMPLOYEES

Pursuant to Decision and Order of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

We will not in any manner interfere with, restrain, or coerce our employees in the exercise of their right to self-organization, to form labor organizations, to join or assist South Jersey Joint Board of the International Ladies' Garment Workers Union, AFL, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. All our employees are free to become or remain members of this union, or any other labor organization.

HARRY LINSK, KATE LINSK, JOSEPH LINSK, AND
ABRAHAM LINSK, INDIVIDUALLY AND AS CO-PARTNERS,
TRADING AS H. LINSK & Co., *Employer*.

By

(Representative)

(Title)

....

Dated

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

INTERMEDIATE REPORT

Mr. Eugéné M. Purver, for the Board.

Moss & Moss, by *Mr. Emanuel Moss*, of Philadelphia, Pa., for the respondent.

Mr. Albert K. Plone, of Camden, N. J., for the Union

STATEMENT OF THE CASE

Upon an amended charge duly filed on September 1, 1944, by South Jersey Joint Board of the International Ladies' Garment Workers Union, AFL, herein called the Union, the National Labor Relations Board, herein called the Board, by its Regional Director for the Fourth Region (Philadelphia, Pennsylvania), issued its complaint dated September 12, 1944, against Harry Linsk, Kate Linsk, Joseph Linsk, and Abraham Linsk, individually and as co-partners, trading as H. Linsk & Co., herein referred to collectively as the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce within the meaning of Section 8 (1) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. Copies of the complaint and notice of hearing were duly served upon the respondent and the Union.

With respect to the unfair labor practices the complaint alleged in substance that the respondent by its officers, representatives, servants, and employees, from in and about May 1944, until September 12, 1944, interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act, in that in and about May 1944, it cautioned and warned its employees that if the Union persisted in organizational efforts it would move all work away from its Clayton plant and close said plant; it urged, persuaded, and advised its employees not to become members of the Union; and it questioned certain of its employees with respect to union membership and other matters concerning the activities of the Union.

On or about September 22, 1944, the respondent filed an answer, admitting certain allegations of the complaint as to the nature of the respondent's business but denying that the respondent had committed any unfair labor practices

Pursuant to notice, a hearing was held at Glassboro, New Jersey, on September 26, 1944, before the undersigned Trial Examiner duly designated by the Chief Trial Examiner. The Board, the respondent, and the Union were represented by counsel. All of the parties participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties

At the close of the case counsel for the Board moved to conform the pleadings to the proof as to names and dates. The motion was granted without objection.

At the close of the hearing, counsel for the Board, the respondent, and the Union argued orally on the record before the undersigned. Counsel for the respondent also filed a brief. None of the other parties filed briefs although offered the opportunity to do so.

Upon the entire record in the case and from his observation of the witnesses, the undersigned makes the following.

FINDINGS OF FACT

I THE BUSINESS OF THE RESPONDENT

H Linsk & Co. is a partnership consisting of Harry Linsk, Kate Linsk, Joseph Linsk, and Abraham Linsk, with a main office and place of business at Philadelphia, Pennsylvania, and a sales office located in New York City, New York.

The respondent is engaged in the manufacture of infants' and girls' dresses and has plants located in Philadelphia, Pennsylvania; and Clayton, McKee City, Westville, Woodbury, and Pennsgrove, New Jersey. This proceeding is concerned only with the Clayton, New Jersey, plant.

All material is cut in the Philadelphia plant and transported to the various New Jersey plants for completion. The finished dresses are sold under the trade name of "Lucette Frocks," "Carol Lee Frocks" and "Betty Barclay Frocks."

All materials used at the Clayton plant are shipped from points outside the State of New Jersey, and all finished products of this plant are shipped from Clayton to points outside the State of New Jersey.

The Clayton plant produces finished goods valued at over \$50,000.00 annually, and the raw materials consisting of cut material used at this plant exceed \$50,000 00 in value, annually.

Approximately 55 persons are employed by the respondent at its Clayton plant

The respondent admitted at the hearing that it is engaged in commerce within the meaning of the Act.

II. THE LABER ORGANIZATION INVOLVED

South Jersey Joint Board of the International Ladies' Garment Workers Union, AFL, is a labor organization which admits to membership employees of respondent

III. THE UNFAIR LABOR PRACTICES

A. Background

At about the end of April 1944, Carrie Snyder, business agent and organizer of the Union, visited Morris Brumberg, manager of the respondent's Clayton plant, and advised him of her intention to attempt organization of the plant's employees. After visiting a number of employees at their homes, an informal union meeting was held at which about 16 employees were present. A second union meeting was held about the middle of May and approximately 22 employees attended. Snyder sent out notices to employees for a third meeting of the Union which was scheduled to be held on the evening of May 23, 1944

B *Interference, restraint, and coercion*

At the Clayton plant, the power for the machines is usually turned off at 5 p.m. On May 23, 1944, the power was turned off shortly before 5 p.m and Brumberg made a short speech to the assembled employees. In substance, Brumberg told the employees that he understood that a number of the employees were in favor of the Union, that they could not better themselves by joining the Union since wages were frozen, that a few employees who had left respondent's employ to work in union shops were glad to come back, that they did not have to join the Union if they did not want to, that it was for them to decide to join or not join, that "union or no union" they would work the following day, and that his advice to employees would be not to attend the union meeting scheduled to be held that night.¹

About 12 employees attended the union meeting held on the night of May 23 and not over 8 or 9 employees attended meetings held thereafter.

At sometime after May 23, Lillian Scott was at her machine and another employee

¹ The above speech was testified to in part or in whole by Saudler, Scott, Ladd, Mathews, and Taylor, witnesses for the Board, and the undersigned credits their testimony in this connection. Brumberg did not deny any of the statements attributed to him. He testified, however, that he did not remember telling any employees not to attend any of the union meetings.

asked her a question. Scott replied, "It don't pay to know anything new, if you do, you get in trouble." She then said to Brumberg, "Isn't that right, Morris?" Scott testified without contradiction that Brumberg replied, "I think if you are in the union, if you let the union come in the shop you will be in more trouble."

About one week after May 23, Brumberg asked employee Bertha Ladd if she was in favor of the Union.² Ladd replied affirmatively. Brumberg then told her that wages were frozen and that if the Union did succeed in organizing the employees, the respondent would close the Clayton plant and move it to Westville.³

Conclusions

The undersigned finds that the respondent, by Brumberg's speech to employees on May 23, 1944, by his questioning of employees concerning their opinion of the Union, and by his statements to Scott and Ladd, has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed them in Section 7 of the Act. The speech itself, in which Brumberg told the employees that they could not better themselves by joining the Union since wages were frozen and advised them not to attend the union meeting scheduled to be held that night, and Brumberg's subsequent questioning of employees concerning the Union and threatening statements to Scott and Ladd clearly were calculated to intimidate employees and discourage membership in and activities on behalf of the Union. That Brumberg's campaign against the Union was effective is shown by the marked falling off of employee attendance at union meetings after the speech on May 23.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

The activities of the respondent set forth in Section III, above, occurring in connection with the operations of the respondent described in Section I, above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE REMEDY

Since it has been found that the respondent has engaged in unfair labor practices, it will be recommended that it cease and desist therefrom and take certain affirmative action designed to effectuate the policies of the Act.

Upon the basis of the foregoing findings of fact, and upon the entire record in the case, the undersigned makes the following:

CONCLUSIONS OF LAW

1. South Jersey Joint Board of the International Ladies' Garment Workers Union, AFL, is a labor organization within the meaning of Section 2 (5) of the Act
2. By interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, the respondent has engaged in and is

² Employee Mary Taylor was also questioned by Brumberg concerning her attitude towards the Union

³ Westville is approximately 15 miles from Clayton. Ladd testified to the above conversation and the undersigned credits her testimony. Brumberg denied that he at any time told any employees that the plant would be closed or moved to Westville but otherwise he did not deny the other statements attributed to him by Ladd.

Ladd further testified, without contradiction, to a conversation between respondent Harry Linsk and some other employees. The undersigned, however does not find the remarks attributed to Linsk to constitute interference, restraint, or coercion. His opinion concerning the Union was solicited by the employees and his remarks were clearly expressions of his own personal opinion and were not coercive.

engaging in unfair labor practices within the meaning of Section 8 (1) of the Act.

3. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

RECOMMENDATIONS

Upon the basis of the foregoing findings of fact and conclusions of law, the undersigned hereby recommends that the collective respondent, Harry Linsk, Kate Linsk, Joseph Linsk and Abraham Linsk, individually and as co-partners, trading as H. Linsk & Co., its officers, agents, successors and assigns shall:

1. Cease and desist from:

(a) Interfering with, restraining, or coercing its employees in the exercise of the rights to self-organization, to form, join, or assist South Jersey Joint Board of the International Garment Workers Union, AFL, or any other labor organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act.

2. Take the following affirmative action which the undersigned finds will effectuate the policies of the Act:

(a) Post immediately notices to all its employees, in conspicuous places in and about its establishment located at Clayton, New Jersey, and maintain said notices for a period of at least sixty (60) consecutive days, stating: (1) that the respondent will not engage in the conduct from which it is recommended that it cease and desist in paragraph 1 (a) of these recommendations; and (2) that the respondent's employees are free to become or remain members of South Jersey Joint Board of the International Ladies' Garment Workers Union, AFL, or any other labor organization, and that the respondent will not discriminate against any employee because of membership in or activity on behalf of any such organization;

(b) File with the Regional Director for the Fourth Region within ten (10) days from the receipt of this Intermediate Report, in writing, setting forth in detail the manner in which the respondent has complied with the following recommendations.

It is also recommended that, unless on or before ten (10) days from the receipt of this Intermediate Report the respondent notifies said Regional Director in writing that it will comply with the foregoing recommendations, the National Labor Relations Board issue an order requiring the respondent to take the action aforesaid.

As provided in Section 33 of Article II of the Rules and Regulations of the National Labor Relations Board, Series 3, as amended, effective November 26, 1943, any party or counsel for the Board may within fifteen (15) days from the date of the entry of the order transferring the case to the Board pursuant to Section 32 of Article II of said Rules and Regulations, file with the Board, Rochambeau Building, Washington, D. C., an original and four copies of a statement in writing setting forth such exceptions to the Intermediate Report or to any other part of the record or proceeding (including rulings upon all motions or objections) as he relies upon, together with the original and four copies of a brief in support thereof. Immediately upon the filing of such statement of exceptions and/or brief, the party or counsel for the Board filing the same shall serve a copy thereof upon each of the other parties and shall file a copy with the Regional Director. As further provided in Section 33, should any party desire permission to argue orally before the Board, request therefor must be made in writing within ten (10) days from the date of the order transferring the case to the Board.

JOHN H. EADIE
Trial Examiner

Dated November 24, 1944.