

In the Matter of NICK AND SONS, INC. and UPHOLSTERERS'  
INTERNATIONAL UNION, LOCAL No. 415, AFL.

*Case No. 18-R-1318.—Decided July 12, 1945*

*Mr. O. S. Hoebreckx*, of Rhinelander, Wis., for the Company

*Mr. John G. Arnold*, of Stevens Point, Wis., for the Union.

*Mr. Harold M. Humphreys*, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Upholsters' International Union, Local No. 415, AFL, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Nick and Sons, Inc, Tomahawk, Wisconsin, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Clyde F. Waers, Trial Examiner Said hearing was held at Tomahawk, Wisconsin, on June 26, 1945. The Company and the Union appeared and participated. All parties 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 an 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

Nick and Sons, Inc., is a Wisconsin corporation having its office and principal place of business in Tomahawk, Wisconsin, where it is engaged in the manufacture of wooden burial caskets<sup>1</sup> Annual gross sales of the

<sup>1</sup> The Company also operates at Tomahawk a retail furniture store and undertaking establishment, neither of which is involved herein

Company's casket factory approximate \$240,000, of which about 40 percent is sold and shipped to points outside the State of Wisconsin.

The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act

#### II. THE ORGANIZATION INVOLVED

Upholsterers' International Union, Local No. 415, affiliated with the American Federation of Labor, is a labor organization admitting to membership employees of the Company.

#### III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of certain of its employees until the Union has been certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the Union represents a substantial number of employees in the unit hereinafter found appropriate.<sup>2</sup>

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

In substantial accordance with the agreement of the parties and based upon the entire record, we find that all employees engaged at the Company's casket factory at Tomahawk, Wisconsin, excluding office and clerical employees, supervisors of the sewing room, covering and upholstery department, painting and finishing department, and machine room, and all other 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

#### V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by 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

<sup>2</sup> The Field Examiner reported that the alleged appropriate unit, consists of 31 employees, and that the Union submitted 21 authorization cards, all dated in May 1945.

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 Nick and Sons, Inc., Tomahawk, Wisconsin, 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 Eighteenth 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 Section 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 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, to determine whether or not they desire to be represented by Upholsterers' International Union, Local No. 415, AFL, for the purposes of collective bargaining.

CHAIRMAN HERZOG took no part in the consideration of the above Decision and Direction of Election.