

In the Matter of THE VICTORIA MILLS COMPANY and PAPER MAKERS  
ORGANIZING COMMITTEE, CIO

*Case No. 3-R-998.—Decided August 11, 1945*

*Frederick W. Fuess, Jr.*, of Syracuse, N. Y., for the Company.  
*Mr. Frank Grasso*, of Cleveland, Ohio, and *Mr. Fred D. Sandner*, of  
Fulton, N. Y., for the CIO.

*Mr. H. I. Smith*, of Buffalo, N. Y., and *Mr. Stephen Gallagher*, of  
Oswego, N. Y., for the A. F. L.

*Mr. David V. Easton*, of counsel to the Board.

DECISION  
AND  
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon petition duly filed by Paper Workers Organizing Committee, CIO, herein called the CIO, alleging that a question affecting commerce had arisen concerning the representation of employees of The Victoria Mills Company, Fulton, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Eugene von Welsheim, Trial Examiner. Said hearing was held at Fulton, New York, on June 5, 1945. The Company, the CIO, and International Association of Machinists, herein called the AFL, appeared,<sup>1</sup> 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 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

The Victoria Mills Company, a New York corporation, is engaged at its plant located at Fulton, New York, in the manufacture of toilet

<sup>1</sup> Although duly served with Notice of Hearing, International Brotherhood of Pulp, Sulphite and Paper Mill Workers, A. F. of L., made no appearance at the hearing.

and tissue paper. Between January 1, 1944, and May 31, 1945, the Company used at its Fulton, New York, plant, raw materials valued in excess of \$250,000, of which more than 30 percent represents shipments made to said plant from points outside the State of New York. During the same period the Company manufactured at said plant finished products valued in excess of \$1,000,000, of which more than 25 percent represents shipments to points outside the State of New York.

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

## II. THE ORGANIZATIONS INVOLVED

Paper Workers Organizing Committee is a labor organization affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

International Association of Machinists is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

## III. THE QUESTION CONCERNING REPRESENTATION

The Company refuses to recognize either of the labor organizations involved herein in the absence of certification by the Board.

A statement of a Field Examiner for the Board, introduced into evidence at the hearing, indicates that the CIO 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

Both labor organizations agree, without objection by the Company, that all production and maintenance employees of the Company, including watchmen, but excluding office and clerical employees, superintendents, and all other supervisory employees constitute an appropriate unit. Issues arose, however, with respect to the inclusion within the unit of two employees, Roy Davis and Orin Clark. The CIO and the Company would exclude these employees, whereas the AFL would include them.

The record indicates that Orin Clark acts as assistant to the superintendent on the day shift. He is a salaried employee, and in the

<sup>2</sup> The Field Examiner reported that the CIO submitted 82 designations, and that there were approximately 115 employees in the unit hereinafter found appropriate.

The Trial Examiner reported that, in support of its motion to intervene, the AFL submitted 27 designations, of which 25 contained the names of persons appearing upon a pay roll of the Company.

absence of his superior, has authority to discharge subordinates for misconduct. We are of the opinion that Clark possesses a supervisory status; we shall exclude him from the unit.

The record further indicates that Roy Davis is a case maker who works on the night shift. He is an hourly paid worker. In addition to his other duties, he acts as custodian of the property, and, in furtherance of his caretaking duties, has authority to discharge employees in the converting room for intoxication only. He has no other supervisory authority over these employees. We are of the opinion that his limited authority to discharge does not warrant a finding that Davis is a supervisor. We shall, therefore, include him within the unit.

We find that all production and maintenance employees of the Company, including watchmen and the case maker,<sup>3</sup> but excluding office and clerical employees, the assistant to the superintendent,<sup>4</sup> superintendents, 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 payroll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.<sup>5</sup>

#### 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 The Victoria Mills Company, Fulton, New York, 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 Third Region, acting in this matter

<sup>3</sup> Roy Davis

<sup>4</sup> Orin Clark.

<sup>5</sup> The requests of the labor organizations herein that they be designated on the ballot otherwise than as herein set forth are hereby referred to the Regional Director to whom the Board has delegated discretionary authority in matters relating to the conduct of the election.

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 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 they desire to be represented by Paper Workers Organizing Committee, affiliated with the Congress of Industrial Organizations, or by International Association of Machinists, affiliated with the American Federation of Labor, for the purposes of collective bargaining, or by neither.

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