

In the Matter of A. BRANDWEIN & COMPANY *and* TEXTILE WORKERS
UNION OF AMERICA, C. I. O.

Case No. 13-R-3046.—Decided December 26, 1945

Mr. Otto A. Jaburek, of Chicago, Ill., for the Company.

Mr. Earl T. McGrew, of Chicago, Ill., for the Union.

Mr. Benj. E. Cook, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Textile Workers Union of America, C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of A. Brandwein & Company, Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Gustaf B. Erickson, Trial Examiner. The hearing was held at Chicago, Illinois, on August 21, 1945. The Company and the Union appeared and participated.¹ 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 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. Brandwein & Company is an Illinois corporation, having its office and place of business in Chicago, Illinois. It is engaged in the manufacture of mattresses, studio couches and related products.

¹ Although the Upholsterers & Furniture Workers Union, Local No. 18, A. F. of L., was permitted by the Trial Examiner to intervene in the proceeding, it formally withdrew before the close of the hearing.

During the year 1944, the Company purchased raw materials valued at \$2,500,000, over 60 percent of which was obtained from sources outside the State of Illinois. During the same period of time the Company sold finished products valued at \$3,500,000, 60 percent of which was shipped to points outside the State of Illinois.

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

II. THE ORGANIZATION INVOLVED

Textile Workers Union 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

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.²

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 parties are in general agreement that the appropriate unit should include all production and maintenance employees of the Company's "A" and "C" plants, except truck drivers, office and factory clerical workers, foremen, and other supervisory employees. The Company, however, would also include assistant foremen and the assistant forelady; the Union would exclude them.

The record reveals that although assistant foremen and the assistant forelady act as instructors and possess some monitorial duties, they have no supervisory authority within our usual definition thereof; accordingly, we shall include them.

We find that all production and maintenance employees of the Company's "A" and "C" plants, including assistant foremen, the assistant forelady, and the assistant shipping clerk, but excluding

² The Field Examiner reported that the Union submitted 160 cards, bearing the names of 100 employees listed on the Company's pay roll of August 8, 1945, and that the cards are dated December 1944 to July 1945. There are approximately 195 employees in the appropriate unit.

truck drivers, office and factory clerical workers, foremen, 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 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.³

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. Brandwein & Company, Chicago, Illinois, an election by secret ballot shall be conducted as early as possible, but not later than sixty (60) days from the date of this Direction, under the direction and supervision of the Regional Director for the Thirteenth 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 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 the regular part-time employees and including those 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 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 Textile Workers Union of America, affiliated with the Congress of Industrial Organizations, for the purposes of collective bargaining.

³ The parties agree, and we find, that all regular part-time employees shall be eligible to vote.