

In the Matter of WILSON ATHLETIC GOODS MANUFACTURING COMPANY
and TEXTILE WORKERS UNION OF AMERICA, C. I. O.

Case No. 3-R-1107.—Decided March 4, 1946

Messrs. John L. Cockrill, of Chicago, Ill., R. C. Cook, of Buffalo, N. Y., and W. P. Holmes, of Ironton, Ohio, for the Company.

Mr. John Wolski, of Buffalo, N. Y., for the Union.

Mr. Phil E. Thompson, 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 Wilson Athletic Goods Manufacturing Company,¹ Golf Bag Division, Buffalo, New York, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Francis X. Helgesen, Trial Examiner. The hearing was held at Buffalo, New York, on November 16, 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 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

Wilson Athletic Goods Manufacturing Company is a Delaware corporation engaged in the manufacture of golf bags at its plant in

¹The parties stipulated at the hearing to correct all formal documents to thus show the true and correct name of the Company.

Buffalo, New York. During the past 12 months the Company has purchased raw materials valued in excess of \$500,000, approximately 55 percent of which was purchased outside the State of New York. During the same period, the Company sold finished products valued in excess of \$500,000, of which approximately 85 percent was shipped outside the State of New York.

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

On September 29, 1945, the Union, by letter, asked the Company for recognition as bargaining representative. The Company denied the request.²

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.³

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 Company and the Union agree that all production and maintenance employees, excluding office and clerical employees, time-study clerk, plant superintendent, production foreman, chief inspector, and supervisory employees, constitute an appropriate unit. However, the parties disagree as to the following categories of employees, all of whom the Union would include and the Company would exclude.

² The Company's contention that its previous negotiations with the Upholsterer's International Union of North America, including proceedings before the War Labor Board terminating in April 1944, bar any other representation claims or proceedings, is without merit. The Upholsterer's Union was certified by the Board as bargaining representative on June 2, 1942, after winning a consent election. It has never consummated any contract with the Company since its certification and has ceased to function as a bargaining representative for more than a year prior to the filing of a petition in this proceeding. Furthermore, the Upholsterer's Union now disclaims any interest in this case or any desire to represent the Company's employees.

³ The Field Examiner reported that the Union submitted 28 authorizations. There are approximately 47 employees in the appropriate unit.

Watchmen: The Company employs three watchmen. They are neither militarized nor deputized. Their work consists primarily of protecting the property, firing the boiler, and some maintenance duties. They are paid on an hourly basis, are on the same pay roll, and generally have the same conditions of work as production employees. Inasmuch as their duties are custodial and not monitorial, we shall include them within the unit.⁴

Shipping clerk and stockroom clerk: The Company employs one shipping clerk and one stockroom clerk who perform the customary duties of such employees. They are responsible for certain stock, cost and production records which are in no way concerned with the labor policies of the Company. These employees are under the supervision of the assistant plant manager. We are of the opinion that their duties and interests are sufficiently identifiable with those of production and maintenance employees to warrant their inclusion in the same unit. We shall include them.⁵

Inspectors: The Company has nine employees who work in the plant as inspectors. They spend approximately 10 percent of their time as thread trimmers. The remainder of the time they inspect golf bags for quality and defects in workmanship. They have no supervisory authority and make only routine inspection reports with no recommendations in respect to the employment status of other employees. We shall include them.⁶

We find that all production and maintenance employees of the Company, including watchmen, inspectors, shipping clerk, and stockroom clerk, but excluding office and clerical employees, time-study clerk, plant superintendent, production foremen, chief inspector, 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.

⁴ *Matter of Lectrolite Corporation*, 63 N. L. R. B. 369; cf. *Matter of Kelsey-Hayes Wheel Company*, 62 N. L. R. B. 421.

⁵ *Matter of Goodman Manufacturing Corporation*, 58 N. L. R. B. 531; *Matter of Kearney & Trecker Corporation*, 60 N. L. R. B. 148, *Matter of Sylvania Industrial Corporation*, 61 N. L. R. B. 1585.

⁶ *Matter of General Bronze Corporation*, 60 N. L. R. B. 1098

The Company employs one part-time charwoman, who works on a regular schedule, averaging approximately 15 hours a week. She is on the same basis as other full-time plant employees as to rate of pay, duties, or other conditions of employment. In accord with our established practice, we find this regular part-time employee eligible to vote in the election.⁷

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 Wilson Athletic Goods Manufacturing Company, Buffalo, 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 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 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, C. I. O., for the purposes of collective bargaining.

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

⁷ *Matter of Madison Iron Works, Inc.*, 61 N. L. R. B. 649.