

IN the Matter of WERTHAN BAG CORPORATION and TEXTILE WORKERS
UNION OF AMERICA, AFFILIATED WITH THE CONGRESS OF INDUSTRIAL
ORGANIZATIONS

Case No. 15-R-1597.—Decided April 22, 1946

Mr. W. E. Norvell, Jr., of Nashville, Tenn., and *Mr. Sumter D. Marks, Jr.*, of New Orleans, La., for the Company.

Mr. Paul Schuler and *Miss Marjorie Geier*, of New Orleans, La., for the Union.

Mr. Donald B. Brady, 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, affiliated with the Congress of Industrial Organizations, herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Werthan Bag Corporation, New Orleans, Louisiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Lewis Moore, Trial Examiner. The hearing was held at New Orleans, Louisiana, on March 15, 1946. 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

The Werthan Bag Corporation is a Delaware corporation with its principal office located at Nashville, Tennessee. It operates three

plants, two located at Nashville, Tennessee, and one at New Orleans, Louisiana. The plant located at New Orleans, Louisiana, is the only one involved in this proceeding. At the latter plant, the Company is engaged in the manufacture and distribution of burlap and cotton bags. During the last six months of 1945, the New Orleans plant used cotton cloth and burlap in its manufacturing operations of the approximate value of \$680,000.00, substantially all of which originated at points outside the State of Louisiana. During the same period, the Company manufactured and distributed burlap and cotton bags approximating \$740,000.00 in value, of which approximately 98 percent was shipped outside the State of Louisiana.

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 January 12, 1946, the Union, by letter, requested recognition of the Company as bargaining representative of the Company's employees. The Company by letter dated February 4, 1946, denied the request.

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.¹

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

We find, substantially in accord with the agreement of the parties at the hearing, that all production and maintenance employees, truck drivers, and non-deputized watchmen at the Company's New Orleans plant, but excluding deputized watchmen, clerical employees, and all 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

¹ The Field Examiner reported that the Union submitted 30 membership cards bearing the names of company employees. There are approximately 55 employees in the appropriate unit.

the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.²

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 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 purpose of collective bargaining with Werthan Bag Corporation, New Orleans, Louisiana, 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 Fifteenth 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 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 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.

² Although the Company offered a substitute definition to be employed in the determination of supervisory status of certain of its employees, we see no reason to depart from the Board's customary definition set forth above.