

In the Matter of ALBERT RHEIN, d/B/A A & C BETTER BEDDING COMPANY and WAREHOUSE AND DISTRIBUTION WORKERS UNION, LOCAL 208, I. L. W. U.—C. I. O.

Case No. 13-R-3506.—Decided May 20, 1946

Mr. George Yellen, of Chicago, Ill., for the Company.

Mr. David B. Rothstein, of Chicago, Ill., for the Union.

Mr. Robert J. Freehling, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Warehouse and Distribution Workers Union, Local 208, I. L. W. U.—C. I. O., herein called the Union, alleging that a question affecting commerce had arisen concerning the representation of employees of Albert Rhein, d/b/a A & C Better Bedding Company, Chicago, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Josef L. Hektoen, Trial Examiner. The hearing was held at Chicago, Illinois, on April 12, 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 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

Albert Rhein, d/b/a A & C Better Bedding Company, is engaged in the manufacture of bedding at its plant in Chicago, Illinois. In 1945, 68 N. L. R. B., No 20.

the Company used raw materials, consisting principally of felt, cotton, textiles, springs, and lumber, valued in excess of \$100,000, of which from 15 to 20 percent was received from sources outside the State of Illinois. During the same period, the Company manufactured and distributed finished products valued in excess of \$100,000, of which from 65 to 70 percent was shipped to customers outside the State.

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

II. THE ORGANIZATION INVOLVED

Warehouse and Distribution Workers Union, Local 208, International Longshoremen's and Warehousemen's Union, affiliated with the Congress of Industrial Organizations, is a labor organization admitting to membership employees of the Company.¹

III. THE QUESTION CONCERNING REPRESENTATION

The Company has refused to grant recognition to the Union as the exclusive bargaining representative of any 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

We find, in accord with the agreement of the parties, that all production and maintenance employees of the Company, excluding office clerical employees, truck drivers, and all supervisory employees with authority

¹ At the hearing, the Company disputed the status of the Union as a "labor organization," on the ground that the Union does not represent production and maintenance employees of any other manufacturing Company, and therefore that it cannot "appropriately represent" such employees. This contention is clearly without merit. See *Matter of Dupli-Color Products Co., Inc.*, 65 N. L. R. B. 1435; *Matter of Gielow, Incorporated*, 60 N. L. R. B. 1477, and *Matter of Pass and Seymour, Inc.*, 51 N. L. R. B. 1135.

² The Field Examiner reported that the Union submitted application cards, bearing the names of 24 employees, and that there are approximately 68 employees in the appropriate unit.

At the hearing, the Company contended that the above report does not indicate that a sufficient number of employees desire the Union as their bargaining representative. In view of the submission of application cards signed by over 35 percent of the employees in the appropriate unit, we are of the opinion that the Union has shown sufficient evidence of interest among the employees of the Company to satisfy the Board's administrative requirements.

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.

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 Albert Rhein, d/b/a A & C Better Bedding Company, Chicago, Illinois, 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 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 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 Warehouse and Distribution Workers Union, Local 208, I. L. W. U.—C. I. O., for the purposes of collective bargaining.

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