

In the Matter of J. C. BLAIR COMPANY and UNITED CONSTRUCTION WORKERS, DIVISION OF DISTRICT 50, UMWA

Case No. 6-R-1373.—Decided July 11, 1946

Mr. Kenneth G. Jackson, of Pittsburgh, Pa., Messrs. Clyde W. Davis, Elmer B. Africa, and C. Jewett Henry, all of Huntingdon, Pa., for the Company.

Messrs. Paul M. Northern, Lee E. Hoover, John Bowser, and Francis Mickey, all of Huntingdon, Pa., for the U. C. W.

Messrs. Harry E. Scott and Harry O'Cleppo, both of Tyrone, Pa., for the U. P. A.

Mr. Melvin J. Welles, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Construction Workers, Division of District 50, UMWA, herein called the U. C. W., alleging that a question affecting commerce had arisen concerning the representation of employees of J. C. Blair Company, Huntingdon, Pennsylvania, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Joseph Lepie, Trial Examiner. The hearing was held at Huntingdon, Pennsylvania, on May 16, 1946. The Company, the U. C. W., and United Paperworkers of America, C. I. O., herein called the U. P. A., 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

J. C. Blair Company is a Pennsylvania corporation with its principal office and plant at Huntingdon, Pennsylvania. It is a subsidiary

of Western Tablet and Stationery Company. The Company is engaged in the manufacture, sale, and distribution of stationery supplies. It purchased, during the year 1945, materials valued in excess of \$1,000,000, of which approximately 90 percent was shipped from points outside the Commonwealth of Pennsylvania. During the same period, the Company manufactured products valued in excess of \$1,000,000, of which approximately 85 percent was shipped to points outside the Commonwealth of Pennsylvania.

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

II. THE ORGANIZATIONS INVOLVED

United Construction Workers, Division of District 50, United Mine Workers of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

United Paperworkers 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 U. C. W. as the exclusive bargaining representative of the Company's employees until the U. C. W. has been certified by the Board in an appropriate unit.

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 U. C. W. and the U. P. A. agree that the appropriate unit should consist of all production and maintenance employees of the Company, including truck drivers and their helpers, and watchmen, but excluding clerical employees, a trucker and handler,¹ the parcel post and express counterman,² floorladies, 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. The Company concedes that this grouping is appropriate, but would also include the trucker and handler in dispute, the parcel post and express counterman, and the floorladies.

¹ Joseph Connor. Including Connor, there are 12 employees classified as trucker and handler. The unions desire the inclusion of all truckers and handlers except Connor

² George Davis.

The trucker and handler in question, and the parcel post and express counterman: The unions would exclude these employees from the appropriate unit as clericals, but the Company contends that they are production and maintenance employees who should be included. Both employees are hourly paid, like production and maintenance employees. The parcel post and express counterman spends less than 50 percent of his time in the Company's retail store. The larger part of his duties consists of assisting the trucker and handler in dispute at the parcel post and express counter, where he records incoming and outgoing shipments and packs outgoing orders, under the supervision of the foreman of the shipping department. This counter is located in the stock room, adjacent to the retail store. Since the greater portion of his time is spent in the shipping department, and since his duties are closely allied to those of production and maintenance employees, we shall include the parcel post and express counterman in the unit hereinafter found to be appropriate.³

The bulk of the duties of the trucker and handler in question consists of distributing incoming parcel post and express shipments, and packing and shipping outgoing parcel post and express. He relieves the parcel post and express counterman in the retail stores 1 hour each day and 1 afternoon each week. During these relief periods he continues to work in the shipping department, under the supervision of the foreman of that department, taking time from his duties there to wait on customers who come into the retail store. We shall also include the trucker and handler in dispute in the unit hereinafter found to be appropriate.

*Floorladies:*⁴ The Company employs two floorladies.⁵ Contrary to the position of the unions, the Company contends that they are not supervisory employees and should therefore be included. Both are hourly paid, like production and maintenance employees. One⁶ works in the envelope and papeterie department. Her principal duty is to arrange for additional materials in the event a shortage is imminent at any machine. She also trains new operators, spending no more than 5 percent of her time in this manner, and inspects finished products, to which operation she devotes about 10 percent of her time. She has no authority to hire, discharge, promote, discipline, or in any way effect changes in the status of the employees in her department, nor can she effectively recommend such action. She may not transfer employees to other departments or from one machine to another.

³ *Matter of Fairfield Lumber & Supply Co.*, 57 N. L. R. B. 1565

⁴ In *Matter of J. C. Blair Company*, 59 N. L. R. B. 1518, we held that the floorladies possessed sufficient *indicia* of supervisory authority to warrant their exclusion from the unit. Since that case their duties have been altered materially, as the evidence adduced at the hearing indicates.

⁵ Florence Hooper and Abbie Rupert.

⁶ Florence Hooper.

She is not consulted by the foreman with respect to rates of production or the dependability of employees, nor does she attend supervisors' meetings. Since she is not a supervisory employee within our usual definition, we shall include her in the unit hereinafter found to be appropriate.

The other floorlady works in the tablet department. Her principal duties are mending and repairing products that come off the machines, making up shortages as they occur, laying out assortments and inspecting finished products. Only about 10 percent of her duties involves inspection. She has no authority to hire, discharge, promote, discipline, or in any way effect changes in the status of the employees in the tablet department, nor can she recommend such changes. She may not transfer employees from one department to another or from one machine to another, and is not consulted by the foreman with respect to production rates or employees' dependability. She does not attend supervisors' meetings. Since she is not a supervisory employee within our usual definition, we shall include her in the unit hereinafter found to be appropriate.

We find that all production and maintenance employees of the Company, including truck drivers and their helpers, watchmen, floorladies, all truckers and handlers, and the parcel post and express counterman, but excluding 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 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 J. C. Blair Company, Huntingdon, Pennsylvania, 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 Sixth 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 they desire to be represented by United Construction Workers, Division of District 50, UMWA, or by United Paperworkers of America, C. I. O., 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.