

In the Matter of MORRIS ABRAMS, INC., EMPLOYER and FEDERAL LABOR UNION, LOCAL 20734, AFL and WHOLESALE & WAREHOUSE WORKERS UNION, LOCAL 65, CIO

Case No. 2-RE-93.--Decided April 23, 1947

Halpert & Burger, by Mr. Harold C. Burger, of New York City, for the Employer.

Mr. Alexander Evanoff, of New York City, for the CIO.

Messrs. George Barasch and Herman Plotnich, of New York City, for the AFL.

Mr. George M. Yaghjian, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed, hearing in this case was held at New York City, on March 10, 1947, before Sidney Reitman, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Upon the entire record in the case, the National Labor Relations Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE EMPLOYER

Morris Abrams, Inc., a New York corporation with its principal place of business in New York City, is engaged in the business of servicing machinery and selling hardware tools and supplies. During the year preceding March 10, 1947, the Employer purchased materials valued in excess of \$100,000, of which more than 25 percent was shipped to its plant in New York City from points outside the State of New York. During the same period, the Employer's sales were in excess of \$250,000, of which more than 10 percent was shipped to points outside the State.

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

II. THE ORGANIZATIONS INVOLVED

Federal Labor Union, Local 20734, herein called the AFL, is a labor organization affiliated with the American Federation of Labor, claiming to represent employees of the Employer.

Wholesale & Warehouse Workers Union, Local 65, herein called the CIO, is a labor organization affiliated with the Congress of Industrial Organizations, claiming to represent employees of the Employer.

III. THE QUESTION CONCERNING REPRESENTATION

The Employer refuses to recognize either the CIO or the AFL as the exclusive bargaining representative of employees of the Employer until one or the other has first been certified by the Board in an appropriate unit.¹

We find that a question affecting commerce has arisen concerning the representation of employees of the Employer, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

We find, in accordance with an agreement of the parties, that all inside salesmen, shipping, stock, packing and delivery department employees, excluding 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.

DIRECTION OF ELECTION ²

As part of the investigation to ascertain representatives for the purposes of collective bargaining with Morris Abrams, Inc., New York City, 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 Second Region, acting in this matter as agent for the National Labor Relations Board, and subject to Sections 203.55 and 203.56, of National Labor Relations Board Rules and Regulations—Series 4, 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

¹ The Employer and the AFL were parties to a collective bargaining contract which terminated on March 31, 1947

² Any participant in the election herein may, upon its prompt request to, and approval thereof by, the Regional Director, have its name removed from the ballot

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 Federal Labor Union, Local 20734, AFL, or by Wholesale & Warehouse Workers Union, Local 65, CIO, for the purposes of collective bargaining, or by neither.