

In the Matter of A. GOODMAN & SON, EMPLOYER and AUGUSTO PIGNEDOLI, PETITIONER and BAKERY & CONFECTIONERY WORKERS INTERNATIONAL UNION OF AMERICA, A. F. L., LOCAL 102, UNION

*Case No. 2-RD-13.—Decided April 23, 1948*

*Drechsler & Leff*, by *Mr. Mortimer Horowitz*, of New York City, for the Employer.

*Mr. Renato Pirosseno*, of North Bergen, N. J., for the Petitioner.

*Mr. Sigmund Goldstein*, of New York City, and *Mr. Umberto Gualtieri*, of Brooklyn, N. Y., for the Union.

*Herman E. Cooper*, by *Mr. H. R. Ostrin*, of New York City; and *Mr. Herman Gund*, of New York City, for the International.

## DECISION

AND

## ORDER

Upon a petition for decertification duly filed, hearing in this case was held at New York City, on January 13, 1948, before George Turitz, hearing officer. During the course of the hearing, a motion was made by Bakery & Confectionery Workers International Union of America, AFL, herein called the International, to dismiss this proceeding. For reasons stated in Section III, below, the motion is granted. 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

The Employer, a New York corporation, is engaged in the business of manufacturing, selling, and distributing matzoths, noodles, and macaroni products. Approximately 85 percent of the raw materials used by the Employer is shipped to its plant from points outside the State of New York, and 20 percent of the products manufactured at

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its plant is shipped to points outside of the State of New York. The Employer does an annual business of approximately \$750,000.<sup>1</sup>

We find that the Employer is engaged in commerce within the meaning of the National Labor Relations Act.

## II. THE PARTIES INVOLVED

The Petitioner, an employee of the Employer, asserts that the Union is no longer the representative of the employees of the noodle and macaroni department in the Employer's plant as defined in Section 9 (a) of the amended Act.

Bakery & Confectionery Workers International Union of America, a labor organization affiliated with American Federation of Labor, herein called the International, admits to membership employees of the Employer.

The Union, Local 102 of the International, a labor organization affiliated with American Federation of Labor, has been recognized by the Employer as the representative of its employees in the noodle and macaroni department of the Employer's plant.

## III. THE ALLEGED QUESTION CONCERNING REPRESENTATION

On October 4, 1939,<sup>2</sup> the Board certified Local 94 of the International as the bargaining representative of employees at the Employer's plant, including seasonal employees, but excluding drivers, salesmen, supervisors, and clerical employees. It was not disputed at the hearing that Local 168 is the successor to Local 94. Local 168, though served with notice, made no appearance at the hearing on this petition.

Local 102 of the International is named in the petition as the recognized bargaining agent for employees in the noodle and macaroni department since October 1939. The last contract between Local 102 of the International and the Employer covering these employees expired on October 1, 1947.

During the hearing on the instant petition, Local 102 of the International admitted that it does not presently claim to be the exclusive bargaining representative of employees in the noodle and macaroni department. The International concurred with the position of Local 102. The Employer then stated that it would not recognize Local 102 as the bargaining representative of employees in the noodle and macaroni department.

<sup>1</sup> These findings are based on the record in an earlier proceeding, *Matter of A. Goodman & Son*, 14 N. L. R. B. 1213. The instant proceeding does not indicate any substantial change in the Employer's business.

<sup>2</sup> 15 N. L. R. B. 265.

Local 102 of the International, the previously recognized bargaining representative, disclaims interest in representing the noodle and macaroni employees; <sup>3</sup> the Employer takes the position that it will not recognize Local 102 as the representative of the noodle and macaroni employees; the International moves to dismiss this proceeding; the Petitioner does not object to a dismissal of the petition without an election. We therefore find that no question exists concerning the representation of the Employer's employees in the noodle and macaroni department, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act. We shall, accordingly, dismiss the instant petition.

### ORDER

Upon the basis of the above findings of fact and the entire record in the case, the National Labor Relations Board hereby orders that the petition for decertification of representatives be, and it hereby is, dismissed.

**MEMBER REYNOLDS** took no part in the consideration of the above Decision and Order.

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<sup>3</sup> Local 102's disclaimer is hereby construed as a relinquishment of its claim to represent the employees in the noodle and macaroni department.