

In the Matter of WILLIAM TELL WOODCRAFTERS, INC. and UNITED
FURNITURE WORKERS OF AMERICA, LOCAL #331, C. I. O.

Case No. 11-R-893.—Decided January 28, 1946

Kahn, Little, Dees & Kahn, by Messrs. *Isidor Kahn* and *Harry P. Dees*, of Evansville, Ind., for the Company.

Mr. Frank Douthitt, of Bloomington, Ind., and *Mr. Anton H. Bettag*, of Jasper, Ind., for the C. I. O.

Mr. Donald B. Brady, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by United Furniture Workers of America, Local #331, C. I. O., herein called the C. I. O., alleging that a question affecting commerce had arisen concerning the representation of employees of William Tell Woodcrafters, Inc., Tell City, Indiana, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Clifford L. Hardy, Trial Examiner. The hearing was held at Tell City, Indiana, on November 21, 1945. The Company and the C. I. O. appeared and participated.¹ 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

William Tell Woodcrafters, Inc., is an Indiana corporation with its main office and principal place of business in Tell City, Indiana, where

¹ Upholsterers' International Union of North America, A. F. of L., was served with Notice and filed a written Motion to Intervene, but did not appear at the hearing. The Trial Examiner correctly denied the Motion to Intervene.

it is engaged in the manufacture of drop leaf tables. Since January 1945, the Company has used raw materials valued in excess of \$10,000, consisting of lumber and finishing materials, over 50 percent of which was shipped to the Company's plant from points outside the State of Indiana. During the same period the Company's finished products were valued in excess of \$10,000, and more than 50 percent thereof was shipped to points outside the State of Indiana.

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

II. THE ORGANIZATION INVOLVED

United Furniture Workers of America, Local #331, is a labor organization, affiliated with the Congress of Industrial Organizations, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

The C. I. O. requested recognition from the Company in a letter dated September 28, 1945. The Company, by letter dated October 1, 1945, refused to grant such recognition until and unless the C. I. O. is certified by the Board in an appropriate unit.

A statement of a Board agent, introduced into evidence at the hearing, indicates that the C. I. O. 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 substantial agreement with the parties, that all production and maintenance employees of the Company, but excluding clerical

²The Field Examiner reported that the C. I. O. submitted 36 authorization cards. There are approximately 50 employees in the appropriate unit.

The Company objected to the admission in evidence of the Report on Investigation of Interest of Contending Labor Organizations on the grounds that it is *ex parte*, self-serving document. The Trial Examiner overruled this objection and his ruling is hereby upheld. The Board requires a petitioning union to submit *prima facie* evidence of representation among the employees in the appropriate unit for the sole purpose of determining whether the petitioner has sufficient interest to justify setting in motion the Board's investigatory machinery. The acceptance of such evidence in no way prejudices the Company's legal rights and the Board does not permit an opposing party to question the evidential showing made by the petitioner at any stage of the proceeding. We are of the opinion that the C. I. O. had a sufficient interest at the time it filed its petition to warrant our determination hereinafter that a question concerning representation has arisen. See *Matter of Tampa Shipbuilding Company, Inc.*, 62 N. L. R. B. 954; *Matter of Sunset Motor Lines*, 59 N. L. R. B. 1434; *Matter of Champion Sheet Metal Company, Inc.*, 61 N. L. R. B. 511.

employees, working foremen,³ the superintendent, and all other 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 William Tell Woodcrafters, Inc., Tell City, Indiana, 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 Eleventh 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 United Furniture Workers of America, Local #331, C. I. O., for the purposes of collective bargaining.

³ The parties agree and we find that five working foremen—Ernest Mattingly, Edward Dooley, Harry Mills, Ralph Leitner, and Logan Mosby—are supervisory employees within the Board's customary definition. The record does not support the Union's contention that Charles Hinton is a supervisory employee within the Board's customary definition, and we shall accordingly include him