

related duties and skills, we find, under all the circumstances, that the Employer's welders constitute a separate appropriate craft unit.

Accordingly, we find that all welders, helpers, assistants, apprentices, and leadmen at the Employer's Anaheim, California, plant, excluding all other employees, guards, professional employees, and supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

### ORDER

IT IS HEREBY ORDERED that the UAW's request to withdraw its petition in Case No. 21-RC-4555, be, and it hereby is, granted with prejudice to its filing a new petition for a period of 6 months from the date of this Order, unless good cause is shown why the Board should entertain a new petition filed prior to the expiration of such period.

[Text of Direction of Election omitted from publication.]

---

**Wytheville Knitting Mills, Inc. and American Federation of Hosiery Workers, AFL-CIO. Case No. 5-CA-1102. May 23, 1957**

### DECISION AND ORDER

On March 20, 1957, Trial Examiner William F. Scharnikow issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices and recommending that it cease and desist therefrom and take affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Respondent filed exceptions to the Intermediate Report and a supporting brief.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Rodgers, Bean, and Jenkins].

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed.<sup>1</sup> The Board has considered the Intermediate Report, the exceptions and brief in support thereof, and the entire record in this case, and adopts the findings, conclusions, and recommendations of the Trial Examiner, with the following addition:

---

<sup>1</sup> We specifically affirm the Trial Examiner's rejection of the Respondent's offers of proof for the reasons stated by the Trial Examiner, and also for the reason that it is apparent that the evidence relied upon by the Respondent, even if received, would not have altered our determination of the appropriateness of the bargaining unit at the plant in question, which was wholly within the framework of established Board unit policy.

In agreement with the Trial Examiner, we find that the Respondent on and since October 2, 1956, refused to bargain collectively in good faith with the Union in violation of Section 8 (a) (5) and (1) of the Act. In making this finding we note that the Court of Appeals for the Fourth Circuit recently affirmed the Board's decision in *Morganton Full Fashioned Hosiery Company*, 115 NLRB 1267,<sup>2</sup> in which the Board found a violation of Section 8 (a) (5) in the refusal of the Respondent in that case to bargain collectively in good faith with the Union as exclusive bargaining representative of a unit of knitters. The court distinguished its earlier *Glen Raven* decision<sup>3</sup> by holding that in *Morganton*, unlike *Glen Raven*, the Board's unit determination was not controlled by the extent of the Union's organization of employees. In the instant case, although the Union participated in an election in a unit of production and maintenance employees in 1946, which it lost, it is apparent that at no time since did it attempt to organize the employees on a plantwide basis. In 1955, after a lapse of 9 years, the Union filed a petition for a unit of knitters. On the record, we are satisfied that our unit determination was predicated on well established Board unit policy<sup>4</sup> and in no way controlled by the extent of the Union's organization of employees. Moreover, the unit found appropriate in the instant case is essentially the same type of unit found appropriate in the *Morganton* case, in which the court affirmed the Board's order. While we respectfully disagree with the court in *Glen Raven* that the Board's unit determination rested on extent of organization, it is entirely clear, in any event, that the unit determination herein falls squarely within the purview of the court's rationale in its *Morganton* decision. Accordingly, both for the reasons expressed by the Trial Examiner and on the basis of the *Morganton* decision, we affirm the Trial Examiner's ultimate findings and conclusions.

#### ORDER

Upon the entire record in this case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders the Respondent, Wytheville Knitting Mills, Inc., Wytheville, Virginia, its officers, agents, successors, and assigns shall:

1. Cease and desist from refusing to bargain collectively in good faith concerning wages, hours, and other terms and conditions of employment, with American Federation of Hosiery Workers, AFL-CIO, as the exclusive representative of all its employees in the following appropriate unit: All full-fashioned knitters and knitter helpers

<sup>2</sup> *N. L. R. B. v. Morganton Full Fashioned Hosiery Company*, 241 F. 2d 913 (C. A. 4).

<sup>3</sup> *N. L. R. B. v. Glen Raven Knitting Mills, Inc.*, 235 F. 2d 413 (C. A. 4).

<sup>4</sup> *Mock, Judson, Voerhinger Company*, 110 NLRB 437, *Angelica Hosiery Mills, Inc.*, 95 NLRB 1284.

(trainees) at the Respondent's hosiery mill located in Wytheville, Virginia, excluding all other employees, office clerical employees, guards, fixers, and supervisors as defined in the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

a. Upon request, bargain collectively with the above-named Union as exclusive representative of all the employees in the appropriate unit, described above, and embody in a signed agreement any understanding reached.

b. Post at its mill in Wytheville, Virginia, copies of the notice attached hereto marked "Appendix A."<sup>5</sup> Copies of said notice to be furnished by the Regional Director for the Fifth Region, shall, after being duly signed by the Respondent or its representative, be posted by the Respondent immediately upon receipt thereof and maintained by it for sixty (60) consecutive days thereafter in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that such notices are not altered, defaced, or covered by any other material.

c. Notify the Regional Director in writing, within ten (10) days from the date of this Order, what steps the Respondent has taken to comply therewith.

<sup>5</sup> In event that this Order is enforced by a decree of a United States Court of Appeals, there shall be substituted for the words "Pursuant to a Decision and Order" the words "Pursuant to a Decree of the United States Court of Appeals, Enforcing an Order."

## APPENDIX A

### NOTICE TO ALL EMPLOYEES

Pursuant to a Decision and Order of the National Labor Relations Board, and in order to effectuate the policies of the National Labor Relations Act, we hereby notify our employees that:

WE WILL NOT refuse to bargain collectively with American Federation of Hosiery Workers, AFL-CIO, as the exclusive representative of the employees in the bargaining unit described below.

WE WILL, upon request, bargain with American Federation of Hosiery Workers, AFL-CIO, as the exclusive representative of all the employees in the appropriate unit with respect to wages, rates of pay, hours of employment, and other terms and conditions of employment, and embody in a signed agreement any understanding reached.

The bargaining unit is:

All full-fashioned knitters and knitter helpers (trainees) at our hosiery mill located in Wytheville, Virginia, excluding all

other employees, office clericals, guards, fixers, and supervisors as defined in the Act.

WYTHEVILLE KNITTING MILLS, INC.,  
*Employer.*

Dated \_\_\_\_\_ By \_\_\_\_\_  
(Representative) (Title)

This notice must remain posted for 60 days from the date hereof, and must not be altered, defaced, or covered by any other material.

#### INTERMEDIATE REPORT AND RECOMMENDED ORDER

The complaint alleges, but the answer of the Respondent (Wytheville Knitting Mills, Inc.) denies, that on and since October 2, 1956, the Respondent has committed an unfair labor practice affecting commerce within the meaning of Section 8 (a) (5) and (1) and Section 2 (6) and (7) of the National Labor Relations Act (61 Stat. 136) by refusing to bargain collectively with the Union (American Federation of Hosiery Workers, AFL-CIO) as the exclusive bargaining representative of an appropriate employee unit consisting of the full-fashioned knitters and knitter helpers (trainees) employed at the Respondent's Wytheville, Virginia, plant.

Actually, the only issue raised by the Respondent in the present case is the appropriateness of this bargaining unit, for which the Board, over the Respondent's objection, had certified the Union as exclusive bargaining representative on December 8, 1955, after a hearing, Decision and Direction of Election, and an employee election in Representation Case No. 5-RC-1793. All other essentials of the complaint are either admitted by the Respondent in its answer or have been established by stipulation or uncontradicted evidence at a hearing held before the duly designated Trial Examiner at Wytheville, Virginia, on February 12, 1957.<sup>1</sup> Thus, the Respondent's answer admits, and the Trial Examiner accordingly finds, that: The Union is a labor organization; the Respondent's business operations at Wytheville, Virginia (as they are described in the complaint)<sup>2</sup> affect commerce; a majority of the employees in the alleged appropriate bargaining unit did, in fact, vote for representation by the Union in the election conducted in the representation proceeding under the Board's supervision on November 30, 1955;<sup>3</sup> the Board, on December 8, 1955, thereupon formally certified the Union as the exclusive bargaining representative of the employees in this unit; and on or about February 8, 1956, the Union requested the Respondent to bargain collectively with the Union as the exclusive bargaining representative of the employees in this unit. And, from stipulations and uncontradicted evidence submitted at the brief hearing in the present complaint case, it appears, and the Trial Examiner further finds, that: There were "negotiation meetings" between the Respondent and the Union on February 8 and 9, April 10, and May 16 and 17, 1956; the Respondent then petitioned the Board on August 24, 1956, to set aside the Union's certification because it asserted that the intervening decision of the Court of Appeals for the Fourth Circuit in the

<sup>1</sup> On February 25, 1957, the General Counsel, on due notice to the other parties, filed a motion with the Trial Examiner to correct certain specific errors in the official transcript of the hearing. The motion has not been opposed and is hereby granted.

<sup>2</sup> The complaint alleges, the Respondent's answer admits, and the Trial Examiner finds that the Respondent, a Virginia corporation with its principal office at Reading, Pennsylvania, operates a plant at Wytheville, Virginia, where it is engaged in the manufacture and sale of women's full-fashioned hosiery; that, in the course of its Wytheville operations, the Respondent annually purchases goods and materials of a value in excess of \$50,000, more than 50 percent of which is shipped to its Wytheville plant directly from points outside the Commonwealth of Virginia; and that, in the same operations, the Respondent annually sells and ships goods of a value in excess of \$100,000, more than 50 percent of which is sold and shipped from its Wytheville plant directly to points and places outside the Commonwealth of Virginia.

<sup>3</sup> The tally of the ballots shows that 134 of the 138 eligible employees in the unit cast valid ballots, of which 87 were cast for representation by the Union and 47 were cast against such representation.

*Glen Raven Knitting Mills* case <sup>4</sup> supported its contention that the unit for which the Union had been certified and was acting, was inappropriate; the Board denied this motion on September 20, 1956; and the Respondent then notified the Union by letter on October 2, 1956, that, in view of its belief that the Board was in error as to the appropriate unit and its intention to rely upon the court's decision in the *Glen Raven* case, it did "not see why future bargaining sessions should be held."

Consistent with the position then taken by the Respondent, the only defense it now urges for its refusal to bargain with the Union is based upon its contention that the employee unit appropriate for collective bargaining is not the unit of knitters and knitter helpers for which the Board issued its certification of the Union, but rather a unit embracing all the production and maintenance employees at the Respondent's Wytheville plant. But during the representation case, the Board twice rejected this contention, first in its Decision and Direction of Election and again in its denial of the Respondent's motion to vacate the Union's certification because of the court's decision in the *Glen Raven* case. Thus by the time the present case came to hearing before the Trial Examiner, the Board had already rejected the only contentions and arguments upon which the Respondent now relies. Under these circumstances, the Trial Examiner denied a motion made at the hearing by the Respondent's counsel to dismiss the complaint in view of the court's decision in the *Glen Raven* case and the alleged inappropriateness of the certified bargaining unit. And, because all the evidence now relied upon by the Respondent in support of its contention had been known and available to it at the time of the representation hearing—and, indeed, for the most part had actually been received and considered by the Board—the Trial Examiner also rejected the Respondent's offers to prove at the hearing in the present complaint case that: (1) The operations of the employees at the Respondent's plant, other than its knitters, were also skilled operations, required considerable training, and were subject to separate supervision; (2) the operations and categories of employees in all full-fashioned knitting mills throughout the United States (including the Respondent's Wytheville mill and the *Glen Raven Knitting Mills*) are essentially the same; (3) a strike of Respondent's knitters would shut down the Wytheville plant within 24 hours and thus affect all the other production and maintenance employees; (4) all the Respondent's employees are eligible for membership in the Union; and (5) in his testimony in the *Glen Raven* case, the Union's regional director in effect stated that the Union would seek an appropriate unit consisting of either the knitters or all the production and maintenance employees, depending "on which [it] had got to sign up."

In a brief filed with the Trial Examiner since the hearing, counsel for the Respondent has again presented its argument that the knitters unit is inappropriate and that the complaint should therefore be dismissed. The Trial Examiner, however, believes that the Board's contrary decision and rulings in the representation case are controlling on this issue. Accordingly, he denies the Respondent's renewal of its motion to dismiss the complaint.

In accordance with the Board's findings and conclusions in the representation case and upon the admissions in the Respondent's answer, the stipulations, and the uncontradicted evidence in the present proceeding, the Trial Examiner makes the following findings of ultimate fact and conclusions of law:

1. American Federation of Hosiery Workers, AFL-CIO, is a labor organization within the meaning of Section 2 (5) of the Act.

2. The Respondent, Wytheville Knitting Mills, Inc., through the conduct of its operations at its Wytheville, Virginia, plant, is engaged in commerce within the meaning of Section 2 (6) of the Act.

3. All full-fashioned knitters and knitter helpers (trainees) at the Respondent's hosiery mills located in Wytheville, Virginia, excluding all other employees, office clericals, guards, fixers, and supervisors as defined in the Act, have constituted, and now constitute, a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

4. On November 30, 1955, a majority of the employees in the aforesaid appropriate unit designated the Union as their exclusive bargaining representative.

5. The aforesaid Union is now, and has been at all times since November 30, 1955, the exclusive bargaining representative of all the employees in the aforesaid appropriate unit within the meaning of Section 9 (a) of the Act.

6. On and since October 2, 1956, the Respondent has refused to bargain collectively in good faith with the Union as the exclusive bargaining representative of its employees in the aforesaid appropriate unit.

<sup>4</sup> *N. L. R. B. v. Glen Raven Knitting Mills*, 235 F. 2d 413.

7. In thus refusing to bargain collectively with the above-named Union as the exclusive representative of the employees in the aforesaid appropriate unit, the Respondent has engaged in and is engaging in unfair labor practices within the meaning of Section 8 (a) (5) and (1) of the Act.

8. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2 (6) and (7) of the Act.

[Recommendations omitted from publication.]

---

**Thatcher Glass Manufacturing Company, Inc. and Robert Edger and American Flint Glass Workers' Union of North America, AFL-CIO, and its agent George M. Parker, and Local 135, American Flint Glass Workers' Union of North America, AFL-CIO.** *Cases Nos. 3-CA-950 and 3-CB-268. May 23, 1957*

### DECISION AND ORDER

On November 26, 1956, Trial Examiner Thomas N. Kessel issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had not engaged in the unfair labor practices alleged in the complaint, and recommending that the complaint be dismissed, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the General Counsel filed exceptions to the Intermediate Report together with a supporting brief, and the Respondents filed briefs in support of the Intermediate Report.

Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Leedom and Members Bean and Jenkins].

The Board has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions and briefs, and the entire record in the case, and hereby adopts the findings, conclusions, and recommendations contained in the Intermediate Report.<sup>1</sup>

[The Board dismissed the complaint.]

---

<sup>1</sup> The Charging Party, Robert Edger, was laid off by Respondent Company on the demand of Respondent Union because of Edger's refusal to make certain "death benefit" or "insurance" payments to the Union. The complaint did not allege, and the General Counsel specifically stated at the hearing that he was not contending, that the discharge was unlawful because the "death benefit" and "insurance" payments were not "periodic dues." The sole issue as stated by the General Counsel was whether the existing collective-bargaining contract between the Respondents contained a union-shop provision. In view of the narrow issue raised by the General Counsel, we do not decide whether a discharge for the reasons assigned would be unlawful if such issue was properly before the Board for decision.

### INTERMEDIATE REPORT

#### STATEMENT OF THE CASE

Upon a charge and amended charge in Case No. 3-CA-950 filed by Robert Edger, an individual, against Thatcher Glass Manufacturing Company, Inc., herein called the Company, and upon a charge and amended charge in Case No. 3-CB-268 filed by 117 NLRB No. 225.