

In the Matter of LA CROSSE GARMENT INDUSTRIES *and* FEDERAL LABOR
UNION No. 21186

In the Matter of LA CROSSE GARMENT INDUSTRIES *and* INTERNATIONAL
LADIES' GARMENT WORKERS UNION

Cases Nos. R-388 and C-325.—Decided February 7, 1938

Ladies' Dress Manufacturing Industry—Settlement: agreement to comply with Act—*Order:* entered on stipulation—*Investigation of Representatives:* agreement for election—*Certification of Representatives:* after election.

Mr. Lawrence Hunt and Mr. William Logan Donnel, for the Board.
Mr. Walter Baeder and Mr. John Thayer, of La Crosse, Wis., for the respondent.

Mr. Jesse E. Higbee, of La Crosse, Wis., and *Mr. Rudolph Faupl,* of Milwaukee, Wis., for the Federal Union.

Mr. Max Geline, of Milwaukee, Wis., for the I. L. G. W. U.

Mr. Henry H. Foster, Jr., and Mr. Paul S. Kuelthau, of counsel to the Board.

DECISION

ORDER

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On September 10 and November 5, 1937, International Ladies' Garment Workers Union, herein called the I. L. G. W. U., filed charges with the Regional Director for the Twelfth Region (Milwaukee, Wisconsin) against Walter Baeder and John Thayer, partners, doing business as La Crosse Garment Industries, herein called the respondent, alleging violation of Section 8 (1) and (3) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

On October 16, 1937, Federal Labor Union No. 21186, herein called the Federal Union, filed with the Regional Director for the Twelfth Region a petition alleging that a question affecting commerce had arisen concerning the representation of employees of the respondent and requesting an investigation and certification of representatives pursuant to Section 9 (c) of the Act. On October 28, 1937, the National Labor Relations Board, herein called the Board, acting pur-

suant to Article III, Sections 3 and 10 (c) (2), and Article II, Section 37 (b), of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered a consolidation of these cases and ordered an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On November 8, 1937, the Regional Director issued a complaint and notice of hearing, copies of which were duly served on the respondent, the I. L. G. W. U., and the Federal Union, alleging that the respondent had engaged in and was engaging in unfair labor practices affecting commerce, within the meaning of Section 8 (1) and (3) and Section 2 (6) and (7) of the Act. The respondent thereafter filed an answer denying the allegations of unfair labor practices.

Pursuant to notice, a hearing was held at La Crosse, Wisconsin, on November 16, 1937, before William R. Ringer, the Trial Examiner duly designated by the Board. The Board, the I. L. G. W. U., and the Federal Union were represented by counsel, the respondent by the partner-owners.

On November 15, 1937, stipulations had been entered into, and they were read into the record at the hearing, which was then adjourned.

On November 26, 1937, the Trial Examiner filed his Intermediate Report embodying the stipulations and recommending that the Board issue an order as provided in those stipulations.

On the basis of those stipulations, the Board found that a question affecting commerce had arisen concerning the representation of employees of the respondent and on the basis of such conclusion and acting pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended, issued a Direction of Election¹ on November 20, 1937, in which it found that the production employees of the respondent, exclusive of maintenance, office, and clerical workers and all employees in administrative and supervisory positions, including foreladies and instructors, constituted a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act. Merely for the purpose of expediting the election and thereby insuring to the employees of the respondent the full benefit of their right to collective bargaining as soon as possible, the Board directed the election without at the same time issuing a decision embodying the stipulations and the order contemplated by them.

Pursuant to the Direction of Election, an election by secret ballot was conducted on November 27, 1937, by the Regional Director for the Twelfth Region among the employees of the respondent constituting the bargaining unit agreed to by the parties and found

¹ 4 N. L. R. B., 190.

appropriate by the Board. On November 29, 1937, the Regional Director issued his Intermediate Report upon the secret ballot, which was duly served on the parties to the proceeding on January 26, 1938. No exceptions to the Intermediate Report on the ballot have been filed by any of the parties.

As to the results of the secret ballot, the Regional Director reported the following:

Total number eligible to vote.....	242
Total number of ballots cast.....	230
Total number of challenged votes.....	4
Total number of votes for Federal Labor Union No. 21186.....	130
Total number of votes for International Ladies' Garment Workers Union, Local No. 314.....	96
Total number of votes for neither organization.....	0

On November 15, 1937, the respondent and the Board stipulated the facts concerning the respondent's business.

I

On the basis of the above stipulation the Board makes the following:

FINDINGS OF FACT

THE BUSINESS OF THE RESPONDENT

The respondent, La Crosse Garment Industries, is and has been since 1933 a partnership composed of Walter Baeder and John L. Thayer with its office and principal place of business at La Crosse, Wisconsin. It is engaged in the manufacture of dresses and women's wearing apparel made of cotton, rayon acetate, linen, and silk. Ninety-nine per cent of the raw material used by the respondent is purchased outside of Wisconsin and is shipped to it at La Crosse, Wisconsin. The respondent sells and ships from its plant in La Crosse into and through States other than Wisconsin 98 per cent of the dresses and women's wearing apparel manufactured by it. The total value of the products manufactured by the respondent in 1936 was \$752,000. The respondent employs approximately 250 persons exclusive of office and supervisory help.

II

STIPULATIONS AS TO THE ORDER AND THE ELECTION

The stipulation between the respondent and the Board concerning the order provides as follows:

1. The National Labor Relations Board has jurisdiction in the premises.

2. The National Labor Relations Board shall issue, and the Respondent will fully comply with an order to the following effect:

Said Respondent shall cease and desist:

(a) From in any manner interfering with, restraining or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in and by Section 8 (1) of the National Labor Relations Act;

(b) From discouraging membership of its said employees in the International Ladies' Garment Workers Union, or any other labor organization of said employees, by discrimination in regard to hire or tenure of employment or any term or condition of employment.

In addition to the foregoing, said Respondent shall take the following affirmative action:

(a) Offer to Anna Crivits reinstatement to her former position, without prejudice to any seniority rights or other rights and privileges previously enjoyed by her;

(b) Post notices to its said employees in two conspicuous places in its plant, stating that it will cease and desist as aforesaid, which said notices shall remain posted for a period of at least thirty (30) consecutive days from the date of such posting;

(c) Inform the Regional Director of the National Labor Relations Board for the Twelfth Region, within thirty (30) days of the service of said order, of the manner in which said Respondent has complied therewith.

Such order may be embodied in any decree of a United States Circuit Court of Appeals in any action or proceeding in the premises.

The stipulation entered into by the respondent, the I. L. G. W. U., and the Federal Union in regard to the appropriate unit provides as follows:

1. The National Labor Relations Board has jurisdiction in the premises.

2. The appropriate bargaining unit shall consist of the production employees of La Crosse Garment Industries, exclusive of maintenance, office and clerical workers and all employees in

administrative and supervisory positions, including foreladies and instructors.

3. In the event that the National Labor Relations Board orders an election to be held under and pursuant to the provisions of Section 9 (c) of the National Labor Relations Act, such election shall be conducted among the employees aforesaid whose names appear upon the payroll of said La Crosse Garment Industries for the pay period ending on the twenty-eighth (28th) day of August, 1937.

The stipulation entered into by the respondent, the I. L. G. W. U., and the Federal Union in regard to holding an election provides as follows:

1. The National Labor Relations Board has jurisdiction in the premises.

2. Numerous employees have signed membership application cards in both unions, so the bona fide membership in each union cannot be determined without an election.

3. La Crosse Garment Industries is unwilling to bargain collectively with either union until the fact that it represents the majority of employees in the appropriate bargaining unit is determined by an election.

4. The National Labor Relations Board should issue, at the earliest possible moment, an order directing that an election to determine such majority be held at the City Hall in the City of La Crosse, County of La Crosse and State of Wisconsin, within seven (7) days from the issuance of said order.

On the basis of the above stipulations and upon the entire record in the proceeding the Board will issue an Order and a Certification.

ORDER

On the basis of the above stipulations, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that Walter Baeder and John Thayer, partners, doing business as La Crosse Garment Industries, La Crosse, Wisconsin, and its officers, agents, successors, and assigns, shall:

1. Cease and desist:

(a) From in any manner interfering with, restraining or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in and by Section 8 (1) of the National Labor Relations Act;

(b) From discouraging membership of its said employees in the International Ladies' Garment Workers Union, or any other labor organization of said employees, by discrimination in regard to hire or tenure of employment or any term or condition of employment.

2. In addition to the foregoing, take the following affirmative action:

(a) Offer to Anna Crivits reinstatement to her former position, without prejudice to any seniority rights or other rights and privileges previously enjoyed by her;

(b) Post notices to its said employees in two conspicuous places in its plant, stating that it will cease and desist as aforesaid, which said notices shall remain posted for a period of at least thirty (30) consecutive days from the date of such posting;

(c) Inform the Regional Director of the National Labor Relations Board for the Twelfth Region, within thirty (30) days of the service of said order, of the manner in which said respondent has complied therewith.

CERTIFICATION OF REPRESENTATIVES

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, Sections 8 and 9, of National Labor Relations Board Rules and Regulations—Series 1, as amended,

IT IS HEREBY CERTIFIED that Federal Labor Union No. 21186 has been designated and selected by a majority of the production employees of Walter Baeder and John L. Thayer, partners, doing business as La Crosse Garment Industries, La Crosse, Wisconsin, exclusive of maintenance, office, and clerical workers and all employees in administrative and supervisory positions, including foreladies and instructors, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, Federal Labor Union No. 21186 is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.