

In the Matter of UNION BUFFALO MILLS COMPANY *and* TEXTILE
WORKERS ORGANIZING COMMITTEE

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WORKERS ORGANIZING COMMITTEE

Cases Nos. R-562 and R-563.—Decided February 18, 1938

Cotton Textile Industry—Investigation of Representatives: controversy concerning representation of employees: majority status disputed by employer; refusal by employer to recognize petitioning union as exclusive representative—*Unit Appropriate for Collective Bargaining:* hourly and piece-rate production and maintenance employees in each plant; no controversy as to—*Election Ordered*

Mr. Marion A. Prowell, for the Board.

Mr. William Elliott, of Columbia, S. C., for the Company.

Mr. C. L. Gibson, of Spartanburg, S. C., for the Union.

Miss Ann Landy, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTIONS

STATEMENT OF THE CASE

On October 18, 1937, Textile Workers Organizing Committee, herein called the Union, filed with the Regional Director for the Tenth Region (Atlanta, Georgia) two petitions alleging that questions affecting commerce had arisen concerning the representation of employees of Union Buffalo Mills Company, herein called the Company, at its Buffalo, South Carolina, mill and at its Fairmont, South Carolina, mill, respectively. Each petition requested an investigation and certification of representatives pursuant to Section 9 (c) of the National Labor Relations Act, 49 Stat. 449, herein called the Act. On November 27, 1937, the National Labor Relations Board, herein called the Board, acting pursuant to Section 9 (c) of the Act and Article III, Section 3, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered investigations and authorized the Regional Director to conduct them and to provide for an appropriate hearing upon due notice. On December 7, 1937, the Board acting pursuant to Article III, Section 10 (c) (2), of Rules and Regulations,

ordered that the two cases be consolidated for the purpose of hearing.

On December 22, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and upon the Union. Pursuant to the notice, a hearing was held on January 13, 1938, at Spartanburg, South Carolina, before James M. Brown, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel and the Union by a representative, and all participated in the hearing. Full opportunity to be heard, to examine and to cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company is a New York corporation, having its principal office in Greenville, South Carolina. It owns and operates one textile mill in Fairmont, South Carolina, and one in Buffalo, South Carolina. On October 16, 1937, the Fairmont plant employed approximately 213 employees and the Buffalo plant between 1,200 and 1,400 employees.

The principal raw material used by the Company is cotton, approximately 60 per cent of such material being obtained, in the case of each mill, from points outside of the State of South Carolina. The Company also uses at each plant coal, oil, starch and manufactured parts and a large per cent of these materials are also obtained outside of South Carolina. The finished products of the Company are cotton sheeting and print cloth, and 85 per cent of such products manufactured at each plant are shipped outside the State of South Carolina.

II. THE ORGANIZATION INVOLVED

The Textile Workers Organizing Committee is a labor organization affiliated with the Committee for Industrial Organization, admitting to its membership all hourly and piece-rate production and maintenance employees of the Company, excluding clerical and supervisory employees.

III. THE QUESTIONS CONCERNING REPRESENTATION

The Union claims as its members 60 per cent of the employees of the Buffalo plant and 75 per cent of the employees of the Fairmont plant. It has written to the Company at both plants asking for a conference to be arranged for the purpose of drawing up an agreement. The Company has refused the request, denying the Union's claim that the majority of the Company's employees at both plants desire to be represented by the Union.

We find that a question has arisen concerning representation of employees of the Company at its Buffalo mill and at its Fairmont mill, respectively.

IV. THE EFFECT OF THE QUESTIONS CONCERNING REPRESENTATION UPON COMMERCE

We find that the questions concerning representation which have arisen, occurring in connection with the operations of the Company described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

V. THE APPROPRIATE UNIT

The Union claims that the hourly and piece-rate production and maintenance employees of the Company exclusive of the supervisory and clerical forces, constitute in the case of each mill a unit appropriate for the purpose of collective bargaining. The Company raised no objection to the bargaining units which the Union claimed appropriate and the testimony of its officials at the hearing showed that the problems of rates of pay, hours and working conditions of the employees in the different departments are substantially the same. Although the evidence presented in the record does not militate against a single bargaining unit composed of employees of the Company at the two mills, neither the Company nor the Union contended for a single unit.

We find that the hourly and piece-rate production and maintenance employees of the Company, excluding clerical and supervisory employees, constitute, in the case of each mill, a unit appropriate for the purposes of collective bargaining and that said units will insure to employees of the Company the full benefit of their right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

Although the Union claimed to represent a majority of employees of the Company in the bargaining at each mill, it did not submit membership cards or other evidence in support of such claim. We find, therefore, that the questions of representation which have arisen can only be resolved by means of an election by secret ballot. It was stipulated by the parties that if an election is ordered by the Board, the pay-roll date October 14, 1937, shall be used to determine eligibility to vote.

Upon the basis of the above findings of fact and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW

1. Questions affecting commerce have arisen concerning the representation of employees of Union Buffalo Mills Company, at its mills at Buffalo and Fairmont, South Carolina, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The hourly and piece-rate production and maintenance employees of the Company, exclusive of clerical and supervisory employees, constitute in the case of each mill a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

DIRECTION OF ELECTIONS

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, 49 Stat. 449, and pursuant to Article III, Section 8, of National Labor Relations Board Rules and Regulations—Series 1, as amended, it is

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for the purposes of collective bargaining with the Union Buffalo Mills Company, elections by secret ballot shall be conducted within fifteen (15) days from the date of this Direction, under the direction and supervision of the Regional Director for the Tenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Section 9, of said Rules and Regulations, among the hourly and piece-rate production and maintenance employees of the Company who were employed by the Company at its Buffalo mill and at its Fairmont mill respectively during the pay-roll period ending October 14, 1937, exclusive of clerical and supervisory employees and those employees who have quit or been discharged for cause since October 14, 1937, to determine whether or not they desire to be represented by the Textile Workers Organizing Committee for the purposes of collective bargaining.