

In the Matter of EDNA COTTON MILLS CORPORATION and TEXTILE
WORKERS ORGANIZING COMMITTEE

Case No. R-521.—Decided March 1, 1938

Cotton Textile Industry—Investigation of Representatives: controversy concerning representation of employees: current strike—*Unit Appropriate for Collective Bargaining:* all employees except clerical, salesmen, and supervisory; no controversy as to—*Election Ordered*

Mr. Jacob Blum and *Mr. Herbert Eby*, for the Board.

Smith, Wharton & Hudgins, by *Mr. D. E. Hudgins*, of Greensboro, N. C., and *Glidewell & Glidewell*, by *Mr. P. W. Glidewell*, of Reidsville, N. C., for the Company.

Mr. Haywood D. Lisk, of Danville, Va., and *Mr. L. J. Johnson*, of Elizabethton, Tenn., for the T. W. O. C.

Mr. D. R. Dimick, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On November 8, 1937, Textile Workers Organizing Committee, herein called the T. W. O. C., filed with the Regional Director for the Fifth Region (Baltimore, Maryland) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Edna Mills Corporation,¹ Reidsville, North Carolina, herein called the Company, and requesting 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 an investigation and authorized the Regional Director to conduct it and to provide for an appropriate hearing upon due notice.

On December 4, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and

¹ The petition, the order directing an investigation, and the notice of hearing erroneously designated the "Edna Mills Corporation" as the "Edna Cotton Mills Corporation."

upon the T. W. O. C. Pursuant to the notice,² a hearing was held on December 17, 1937, at Reidsville, North Carolina, before D. Lacy McBryde, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel, and the T. W. O. C. was represented by an organizer and a representative. All parties 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.

On December 8, 1937, the Company filed with the Regional Director a motion³ that the petition be dismissed on the ground the Board was without jurisdiction over the Company. The motion is hereby denied.

During the course of the hearing the Trial Examiner made several rulings on motions. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

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

FINDINGS OF FACT *

I. THE BUSINESS OF THE COMPANY

Edna Mills Corporation is a North Carolina corporation which owns and operates at Reidsville, North Carolina, a mill for the manufacture, sale, and distribution of cotton cloth, print cloth, and three-leaf twills. The Company processes cotton, weaves the yarn into cheap unfinished medium-count cotton cloth, which cloth is sold in the gray or unfinished state. Raw materials are shipped to the mill from North Carolina, South Carolina, and Virginia. During the first ten months of the year 1937, 4,639 bales of cotton were purchased by the Company, of which a total of 3,374 bales were shipped to the mill from points within North Carolina. The manufactured parts used by the Company are shipped to the mill from Massachusetts, and certain other supplies come from North Carolina, West Virginia, and Ohio.

Approximately 60 per cent of the finished products of the Company are shipped outside of the State of North Carolina, and are sold through a commission merchant in New York. The volume of the Company's production is approximately 42,000 pounds a week, or in terms of dollars, based upon the marked price as of the date of the hearing, about \$9,080. Nearly every industry which uses textiles is dependent upon this industry for materials.

² All parties were notified that the date of the hearing was changed from December 13, 1937, to December 18, 1937. Upon consent of all parties, however, the hearing was held on December 17, 1937.

³ Board Exhibit 1 (7)

During the peak season the Company employs 325 employees, eight of whom are supervisors. Approximately 238 employees, including eight supervisors, are employed during the normal season.

II. THE ORGANIZATION INVOLVED

Textile Workers Organizing Committee is a labor organization affiliated with the Committee for Industrial Organization. The record is silent as to the classes of employees of the Company that are eligible to membership in the organization.

III. THE QUESTION CONCERNING REPRESENTATION

The T. W. O. C., in its petition, alleges that a question of representation has arisen. The record contains no facts which tend to controvert this allegation. Moreover, the record shows that a strike was in progress at the mill of the Company at the time of the hearing.

We find that a question has arisen concerning representation of employees of the Company.

IV. THE EFFECT OF THE QUESTION CONCERNING REPRESENTATION UPON COMMERCE

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

V. THE APPROPRIATE UNIT

The T. W. O. C., in its petition, claims that all employees of the Company, except clerical, salesmen, and supervisory employees, constitute a unit appropriate for purposes of collective bargaining. The collective bargaining unit as described in the petition was not objected to by the Company.

We find that all employees of the Company, excluding clerical, salesmen, and supervisory employees, constitute a unit appropriate for the purposes of collective bargaining and that said unit will insure to the 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 T. W. O. C., in its petition, claims to represent a majority of the employees of the Company within the unit which we

have found appropriate, no evidence from which the Board might certify the T. W. O. C. as the exclusive representative of the employees of the Company for purposes of collective bargaining was introduced at the hearing.

The Company and the T. W. O. C. agreed that the Company's pay roll of October 21, 1937, should be used in determining the list of eligible voters. We find such pay roll to be satisfactory.

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. A question affecting commerce has arisen concerning the representation of employees of Edna Mills Corporation, Reidsville, North Carolina, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. All the employees of the Company, excluding clerical, salesmen, and supervisory employees, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

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

DIRECTED that, as part of the investigation authorized by the Board to ascertain representatives for collective bargaining with Edna Mills Corporation, Reidsville, North Carolina, an election 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 Fifth Region, acting in this matter as the agent for the National Labor Relations Board, and subject to Article III, Section 9, of said Rules and Regulations, among the employees of the Company, who were on the Company's pay roll of October 21, 1937, excluding clerical, salesmen, and supervisory employees, and those who have since quit or been discharged for cause, to determine whether or not they desire to be represented by Textile Workers Organizing Committee for the purposes of collective bargaining.