

In the Matter of the AMERICAN HAIR & FELT COMPANY and JUTE,
HAIR & FELT WORKERS, LOCAL NO. 163

Case No. R-620.—Decided April 16, 1938

Felt Manufacturing Industry.—Investigation of Representatives: controversy concerning representatives: rival organizations; refusal to recognize petitioning union as bargaining representative of employees; controversy as to appropriate unit—*Unit Appropriate for Collective Bargaining:* all of the employees, including teamsters' helpers, but excluding executives, clerical workers, supervisory employees, foremen, and teamsters: agreement of parties as to; watchmen included—*Election Ordercd:* ballot, place on for expression of desire to be represented by neither of contending organizations.

Mr. Albert Ornstein, for the Board.

Pitney, Hardin & Skinner, by *Mr. William J. Brennan*, of Newark, N. J., for the Company.

Isserman, Isserman, Rothbard & Kapelsohn, by *Mr. Abraham J. Isserman*, of Newark, N. J., for C. I. O. Local No. 163.

Mr. William Karlin and *Mr. Leo Greenfield*, of New York City, for A. F. L. Local No. 163.

Mr. Wallace M. Cohen, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

On February 1, 1938, Jute, Hair & Felt Workers, Local No. 163, affiliated with the United Furniture Workers of America, herein called C. I. O. Local No. 163, filed with the Regional Director for the Second Region (New York City) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of American Hair & Felt Company, Newark, New Jersey, 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 February 23, 1938, 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 February 25, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company, upon the C. I. O. Local No. 163, and upon the Upholsterers, Furniture, Carpet, Linoleum and Awning Workers International Union of North America, herein called the International, a labor organization claiming to represent employees directly affected by the investigation. Pursuant to the notice, a hearing was held on March 4 and March 5, 1938, at New York City, before Hugh C. McCarthy, the Trial Examiner duly designated by the Board. The Board, the Company, the C. I. O. Local No. 163, and the International were represented by counsel, and all participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues was afforded all parties. During the course of the hearing, the Trial Examiner made a number of rulings on objections to the admission and exclusion of evidence. The Board has reviewed these rulings and finds that no prejudicial errors were committed.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

American Hair & Felt Company, a Delaware corporation, has its principal office in Chicago, Illinois, and, in addition to the two plants in Newark, New Jersey, which are the only ones involved in this proceeding, it has plants in California, Delaware, Illinois, Kentucky, Massachusetts, Pennsylvania, and Wisconsin.

At its Newark plants, the Company manufactures Ozite carpet cushions, insulation felts, gun wadding, slipper felts, and felted carpet. Its principal raw materials, consisting of animal hair, jute, burlap, and dyes, are almost wholly purchased and shipped from points located outside of the State of New Jersey. Its burlap originates in Scotland and India. In 1937, sales of goods resulting from the processes in which the Company is engaged in its Newark plants amounted to the sum of \$3,641,795.40, of which 90 per cent were shipped outside New Jersey.

II. THE ORGANIZATIONS INVOLVED

Jute, Hair and Felt Workers, Local No. 163, is a labor organization affiliated with the United Furniture Workers of America, affiliated with the Committee for Industrial Organization, admitting to

its membership all the employees of the two Newark plants of the Company, excluding executives, clerical employees, supervisory foremen, and teamsters.

Hair, Felt and Jute Workers, Local No. 163, is a labor organization affiliated with the Upholsterers, Furniture, Carpet, Linoleum and Awning Workers' International Union of North America, affiliated with the American Federation of Labor. It admits to its membership all the employees of the two Newark plants of the Company, excluding executives, clerical employees, supervisory foremen, and teamsters.

III. THE QUESTION CONCERNING REPRESENTATION

In order to settle a strike which occurred in May and June, 1937, the Company on June 26, 1937, posted a statement pertaining to wages, hours, and other conditions of employment at its two Newark plants and recognizing the "Hair, Felt and Jute Workers' Union, Local No. 163, affiliated with Upholsterers, Furniture, Carpet, Linoleum and Awning Workers' International Union of North America, affiliated with the American Federation of Labor, as exclusive representative for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, so long as they are the selected representative of at least a majority of the employees of said plants which shall constitute a unit for such purposes." The statement provided that the "Company will give thirty days' written notice to the duly accredited representative or representatives of the employees before making any change in the above provisions respecting rates of pay, wages, hours of employment; provided, that no notice of change will be given prior to December 1, 1937."

Following the convention of the Committee for Industrial Organization at Washington, D. C., in November 1937, the members of Local No. 163 held elections on December 12 and December 21, 1937, to determine whether they should change their affiliation from the American Federation of Labor to the Committee for Industrial Organization. According to a tally introduced into evidence, the members favored the Committee for Industrial Organization by a vote of 153 to 48. Thereafter, on January 5, 1938, the United Furniture Workers of America, affiliated with the Committee for Industrial Organization, chartered Local No. 163, admitting to its membership employees of the Company at its two Newark plants.

On February 18, 1938, the Upholsterers, Furniture, Carpet, Linoleum and Awning Workers' International Union of North America, affiliated with the American Federation of Labor, chartered Jute, Hair and Felt Workers, Local No. 163, herein called A. F. L. Local No. 163, covering employees of the Company at its two Newark plants. This local immediately began an organizational drive.

On January 11, 1938, representatives of C. I. O. Local No. 163 met with the manager of the Company's Newark plants in an attempt to bargain collectively on behalf of employees at the plants. The Company stated that it desired to assume a strictly neutral position relative to the dispute between the labor organizations and would not bargain until the question of representation was settled.

During the course of the hearing, some question arose as to whether the thirty days' notice provided for in the Company's statement posted June 26, 1937, had been given and, if such notice had not been given, as to whether the Company could bargain with any representatives other than those specified in the statement. In any event, however, it is clear that the statement will not preclude determination by the Board of the issues herein involved or preclude any certification of representatives for the purpose of collective bargaining.

We find that a question has arisen concerning the 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, traffic, 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

C. I. O. Local No. 163 and A. F. L. Local No. 163 both claimed at the hearing that all employees of the Company at its Newark plants, including watchmen and teamsters' helpers, but excluding executives, clerical workers, supervisory foremen, and teamsters, constitute a unit appropriate for the purposes of collective bargaining.

The Company objected to the inclusion of watchmen in the unit. The duties of the six or seven watchmen employed at the two Newark plants consist principally of watching the gates and grounds, keeping out intruders, preventing theft, examining the sprinklers, and guarding against fires. Under the circumstances and since both participating labor organizations desire inclusion of the watchmen in the bargaining unit, we shall include them.¹

We find that all of the employees of the Company at its Newark, New Jersey, plants, including watchmen and teamsters' helpers, but

¹ See *Holland Reiger Division of Apex Electric Co and United Electrical, Radio & Machine Workers of America*, 6. N. L. R. B. 156

excluding executives, clerical employees, supervisory foremen, and teamsters, constitute a unit appropriate for the purposes of collective bargaining, and that said unit will insure to employees of the Company the full benefit of their rights to self-organization and to collective bargaining, and otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

C. I. O. Local No. 163 and A. F. L. Local No. 163 each claim to represent a majority of the employees of the Company within the appropriate unit, but neither offered evidence tending to substantiate its claim. During the course of the hearing, the Company and C. I. O. Local No. 163 expressed approval of an election and no definite objection thereto was made by A. F. L. Local No. 163. We find that the question which has arisen concerning the representation of employees can best be resolved by the holding of an election by secret ballot.

Each labor organization has manifested a desire to have the election confined to a choice between the two organizations. The Company desires that the employees also be afforded an option of voting for neither of the organizations. We find that the latter choice should be open to the employees.²

There was introduced in evidence at the hearing the pay roll of the Company for the period ending February 2, 1938. The employees eligible to vote at the election should be those within the appropriate unit who were employed during the pay-roll period ending February 2, 1938, including those employees laid off, but excluding those employees who have since quit or been discharged for cause.

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 American Hair & Felt Company at its Newark, New Jersey, plants, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. All of the employees of American Hair & Felt Company, at its Newark, New Jersey, plants, including watchmen and teamsters' helpers, but excluding executives, clerical employees, supervisory foremen, and teamsters, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the National Labor Relations Act.

² See *In the Matter of Interlake Iron Corporation and Amalgamated Association of Iron, Steel, and Tin Workers of North America, Local No. 167*, 4 N. L. R. B. 55.

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 the purposes of collective bargaining with American Hair & Felt Company, Newark, New Jersey, 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 Second 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 all of the employees employed by the Company at its Newark, New Jersey, plants during the pay-roll period ending February 2, 1938, including employees laid off, watchmen and teamsters' helpers, but excluding executives, clerical employees, supervisory foremen, and teamsters, and excluding those employees who have since quit or been discharged for cause, to determine whether they desire to be represented by Jute, Hair and Felt Workers, Local No. 163, affiliated with the United Furniture Workers of America, affiliated with the Committee for Industrial Organization, or by Hair, Felt and Jute Workers, Local No. 163, affiliated with the Upholsterers' Furniture, Carpet, Linoleum and Awning Workers' International Union of North America, affiliated with American Federation of Labor, for the purpose of collective bargaining, or by neither.