

In the Matter of HAWKEYE PEARL BUTTON COMPANY and AMALGAMATED CLOTHING WORKERS OF AMERICA

Case No. C-512.—Decided May 27, 1938

Button Manufacturing Industry—Settlement: stipulation providing for reinstatement of discharged employee with back pay, and of locked-out employees without back pay—*Order:* entered on stipulation; complaint dismissed as to four employees.

Mr. Hyman Abraham Schulson, for the Board.

Allbee & Allbee, of Muscatine, Iowa, for the respondent.

Mr. Edgar D. Schultheis, of Muscatine, Iowa, for the Union.

Mr. George Turitz, of counsel to the Board.

DECISION

AND

ORDER

STATEMENT OF THE CASE

Upon charges and amended charges duly filed by Amalgamated Clothing Workers of America, herein called the Union, through Edgar D. Schultheis, one of its organizers, the National Labor Relations Board, herein called the Board, by the Regional Director for the Thirteenth Region (Chicago, Illinois), issued its complaint and amended complaint, dated March 23 and March 29, 1938, respectively, against Hawkeye Pearl Button Company, Muscatine, Iowa, herein called the respondent, 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 National Labor Relations Act, 49 Stat. 449, herein called the Act.

In respect to the unfair labor practices the amended complaint alleged in substance that the respondent discharged and has refused to reinstate Violet Puckett, an employee of the respondent, and locked out and discharged and has refused to reinstate 59 other employees of the respondent, for the reason that they joined or assisted the Union, and engaged in concerted activities with other employees of the respondent for the purposes of collective bargaining and other mutual aid and protection. Copies of the complaint and amended

complaint and notices of hearing thereon were duly served upon the respondent and the Union.

The respondent filed answers, verified March 28 and April 1, 1938, respectively, in which it denied all the allegations that it had engaged in unfair labor practices.

On April 2, 1938, prior to the hearing, scheduled for April 4, 1938, the respondent, the Union, and a representative of the Board entered into a stipulation settling the case, which stipulation was filed with the Chief Trial Examiner on April 8, 1938. The stipulation is as follows:

STIPULATION AND AGREEMENT

It is hereby stipulated and agreed by and between Hawkeye Pearl Button Company, hereinafter called the respondent, Amalgamated Clothing Workers of America, hereinafter called the Union, and the National Labor Relations Board, hereinafter called the Board, that:

1. Upon charges duly filed by the Union, through Edgar D. Schultheis, an accredited agent and representative of the Union for this purpose, the Board, by Leonard C. Bajork, Regional Director for the Thirteenth Region, (Chicago, Illinois), acting pursuant to authority granted in Section 10 (b) of the National Labor Relations Act, 49 Stat. 449, hereinafter called the Act, and acting pursuant to Article IV, Section 1, of National Labor Relations Board Rules and Regulations, Series 1, as amended, duly issued a complaint and notice of hearing thereon on March 23, 1938, and an amended complaint and notice of hearing thereon on March 29, 1938, against the respondent. The complaint, amended complaint, and notices of hearing thereon, as well as a copy of National Labor Relations Board Rules and Regulations, Series 1, as amended, were duly served upon the respondent and the Union in accordance with National Labor Relations Board Rules and Regulations, Series 1, as amended, Article V, Section 1. A hearing was scheduled for 9:30 a. m. on April 4, 1938, in the City Hall, Third and Sycamore Streets, City of Muscatine, County of Muscatine, State of Iowa.

2. The respondent is and has been since February 16, 1903, a corporation organized and existing under and by virtue of the laws of the State of Iowa, having its principal office and place of business in the City of Muscatine, County of Muscatine, State of Iowa, and is now and has continuously been engaged at a place of business in the City of Muscatine, County of Muscatine, State of Iowa, in the manufacture, sale and distribution of buttons made from clam shells.

The respondent in the course and conduct of its business operates one large button cutting plant, hereinafter referred to as plant "A", and a number of small button cutting shops in Muscatine, Iowa, some of which are controlled and directed by the respondent, and others of which are operated by individual proprietors, and another button cutting plant in Keokuk, Iowa, hereinafter referred to as plant "B", for the purpose of cutting button blanks from clam shells. The respondent also operates a button finishing plant in Muscatine, Iowa, hereinafter referred to as plant "C", for the purpose of finishing and sorting button blanks out at plants "A" and "B", and at small button cutting shops in Muscatine, Iowa, some of which are controlled and directed by the respondent, and others of which are operated by individual proprietors.

3. The respondent admits that it is engaged in interstate commerce within the meaning of the Act.

The raw materials used by the respondent in the course and conduct of its business and in the operation of its plants have been and are as follows: clam shells, coal, bleaching gas, casein, and granulated quartz, among others. The approximate total cost of the raw materials used by the respondent amount to \$285,000 for the period from July 1, 1936, to July 1, 1937. From July 1, 1936, to July 1, 1937, the respondent has purchased approximately 60 per cent of its raw materials in States of the United States other than the State of Iowa. From July 1, 1936, to July 1, 1937, the respondent, in the course and conduct of its business, causes and has continuously caused approximately 23 per cent of the raw materials used in the production of its finished buttons to be transported from States of the United States other than the State of Iowa, to plant "A" and a number of small button cutting shops, in Muscatine, Iowa, some of which are controlled and directed by the respondent, and others of which are operated by individual proprietors, and to plant "B", all located in the State of Iowa. The button blanks cut in cutting plants "A" and "B" and a number of small shops in Muscatine, Iowa, some of which are controlled and directed by the respondent, and others of which are operated by individual proprietors, are finished into buttons in plant "C", and then sold for use on undergarments, shirts, etc. From July 1, 1936, to July 1, 1937, the respondent manufactured at plant "C", 2,000,000 gross of finished buttons. The approximate value of the said finished buttons produced by the respondent at plant "C" from July 1, 1936, to July 1, 1937, amounted to \$554,000. From July 1, 1936, to July 1, 1937, the respondent has shipped by rail and truck approximately 90 per cent of the entire

output of finished buttons manufactured at plant "C", from plant "C" to purchasers in all parts of the United States.

4. The Amalgamated Clothing Workers of America is a labor organization within the meaning of Section 2 (5) of the Act.

5. The respondent, while engaged at plant "C", on April 10, 1937, discharged Violet Puckett, for the reason that she joined and assisted the Union, and engaged in concerted activities with other employees in plants "A" and "C" for the purposes of collective bargaining and other mutual aid and protection.

On or about July 1, 1937, the respondent, while engaged in the operations above described at plants "A" and "C" in Muscatine, Iowa, stopped its operations at plant "A", locked out and discharged, and has at all times since said date refused to reinstate a large number of its employees, named in Appendix A, a copy of which is hereto attached,¹ for the reason that they were engaging in labor union activities and were assisting in the formation and administration of the Union, or had become members thereof, and engaged in concerted activities with other employees in plants "A" and "C" for the purposes of collective bargaining and other mutual aid and protection.

By discharging Violet Puckett and the employees named in Appendix A, the respondent has discriminated against its employees with respect to hire and tenure of employment for the purpose of discouraging membership in the Union, and that by such acts the respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the Act.

The acts of the respondent in discharging and refusing to reinstate Violet Puckett and the employees named in Appendix A, constitute violations of Section 8 (1) and (3) of the Act, as alleged in the amended complaint, and said acts occurred in connection with the operations of the respondent described herein, and have, and have had, a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and have led and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

6. The respondent will cease and desist from:

(a) 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 and

¹ Appendix A is omitted from the copy here set forth of the stipulation. It is identical with appendix A attached to the Board's order below.

other mutual aid or protection, as guaranteed in Section 7 of the Act.

(b) Discouraging membership in Amalgamated Clothing Workers of America, or any other labor organization of its employees, by discriminating in regard to hire or tenure of employment or any terms or conditions of employment.

7. The respondent will offer Violet Puckett immediate and full reinstatement to her former position without prejudice to her seniority and other rights and privileges, and pay back pay to Violet Puckett in the amount of \$459.92. The respondent will deposit this money with the Muscatine Bank and Trust Company, to the account of Harold E. Wilson, as trustee, for Violet Puckett upon the following terms and conditions: Upon approval of this stipulation and agreement by the National Labor Relations Board, Harold E. Wilson, Trustee, will pay to Violet Puckett \$459.92. Upon notice by the National Labor Relations Board of their failure to approve this agreement and stipulation, the \$459.92 is to revert back immediately to the respondent.

8. The respondent will offer to the employees listed in Appendix A., attached hereto, immediate and full reinstatement, without back pay, to their former positions, or to positions similar and substantially equivalent to those positions held by said employees prior to the lockout on July 1, 1937, either in Plant "A", or the Teichmiller Cutting Plant, or any other button cutting shops in Muscatine, Iowa, which are controlled and directed by the respondent, without prejudice to their seniority and other rights and privileges, dismissing all persons who had been hired by the respondent for the first time since July 1, 1937, in plant "A", or the Teichmiller Plant, or any other button cutting shops in Muscatine, Iowa, which are controlled and directed by the respondent. If, after reinstating the employees listed in Appendix A, the respondent determines that business conditions do not require its entire working force, it may reduce its staff, provided the reduction is made without discrimination against employees because of their union activities or affiliation, following a system of seniority and efficiency.

9. The respondent waives its right to hearing as set forth in Section 10 (b) and (c) of the Act.

10. This stipulation and agreement, along with the amended charge, the complaint, the answer to the complaint, motion for continuance, the amended complaint, the answer to the amended complaint, notices of hearing, affidavits of service, the order of the Regional Director denying the continuance, and National Labor Relations Board Rules and Regulations—Series 1, as amended, may be introduced as evidence by filing them with the

Chief Trial Examiner of the National Labor Relations Board at Washington, D. C.

11. Upon this stipulation, if approved by the National Labor Relations Board, an order may forthwith be entered by said Board and by the appropriate Circuit Court of Appeals providing as follows:

(1) The respondent, Hawkeye Pearl Button Company will cease and desist from violating the Act by:

(a) 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 and other mutual aid or protection, as guaranteed in Section 7 of the Act.

(b) Discouraging membership in Amalgamated Clothing Workers of America, or any other labor organization of its employees, by discriminating in regard to hire or tenure of employment or any terms or conditions of employment.

(2) The respondent, Hawkeye Pearl Button Company, will take the following affirmative action to effectuate the policies of the National Labor Relations Act:

(a) Offer Violet Puckett immediate and full reinstatement to her former position without prejudice to her seniority and other rights and privileges.

(b) Pay back pay immediately to Violet Puckett in the amount of \$459.92.

(c) Offer to the employees listed in Appendix A., attached hereto, immediate and full reinstatement, without back pay, to their former positions, or to positions similar and substantially equivalent to those positions held by said employees prior to the lockout on July 1, 1937, either in plant "A", or the Teichmiller Cutting Plant, or any other button cutting shops in Muscatine, Iowa, which are controlled and directed by the respondent without prejudice to their seniority or other rights and privileges, dismissing all persons who had been hired by the respondent for the first time since July 1, 1937, in plant "A", or the Teichmiller Plant, or any other button cutting shops in Muscatine, Iowa, which are controlled and directed by the respondent. If, after reinstating the employees listed in Appendix A, the respondent determines that business conditions do not require its entire working force, it may reduce its staff, provided the reduction is made without discrimination against employees because of their union activities or affiliation, following a system of seniority and efficiency.

(d) Post immediately in a conspicuous place at plants "A", "C", the Teichmiller Cutting Plant, and any other button cutting shops in Muscatine, Iowa, which are controlled and directed by the respondent, notices for a period of thirty (30) days after receipt of copies of the order to be entered by the National Labor Relations Board to be made hereon.

IN WITNESS WHEREOF the parties hereto have caused their hands and seals to be affixed on this 2nd day of April, A. D., 1938.

HAWKEYE PEARL BUTTON COMPANY,
AN IOWA CORPORATION,

By (s) F. W. HERMANN, *Secy.* (Title.)

AMALGAMATED CLOTHING

WORKERS OF AMERICA,

By (s) EDGAR D. SCHULTHEIS, *Organizer.* (Title.)

LEONARD C. BAJORK, *Regional Director,*

By (s) HYMAN ABRAHAM SCHULSON, *Attorney,*

For National Labor Relations Board.

By order dated April 11, 1938, the Board, pursuant to Article II, Section 37, of National Labor Relations Board Rules and Regulations—Series 1, as amended, ordered that the proceeding be transferred to and continued before the Board. The Board hereby approves the stipulation referred to.

Upon the basis of the above stipulation and the entire record in the case the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE RESPONDENT

Hawkeye Pearl Button Company is an Iowa corporation, having its principal office and place of business in the city of Muscatine, Iowa. It is engaged in the business of the manufacture, sale, and distribution of buttons made of clam shells. It operates two button cutting plants, one in Muscatine, herein called Plant "A," and the other in Keokuk, Iowa, herein called Plant "B," and a button finishing and sorting plant in Muscatine, herein called Plant "C." It is stated also in the stipulation referred to above: "The respondent in the course and conduct of its business operates . . . a number of small button cutting shops in Muscatine, Iowa, some of which are controlled and directed by the respondent and others of which are operated by individual proprietors . . ." The button blanks cut in Plants "A" and "B" and in the other button cutting shops mentioned are made into finished buttons at Plant "C."

The raw materials used by the respondent in the operation of its business are clam shells, coal, bleaching gas, casein, granulated quartz,

and other materials. During the period from July 1, 1936 to July 1, 1937, the respondent used in its business raw materials costing \$285,000, of which approximately 60 per cent were purchased outside of the State of Iowa. During the same period the respondent manufactured at its button finishing and sorting plant two million gross of finished buttons, amounting in value to \$554,000, of which approximately 90 per cent were shipped to purchasers in all parts of the United States. The respondent admits it is engaged in interstate commerce within the meaning of the Act.

II. THE ORGANIZATION INVOLVED

Amalgamated Clothing Workers of America is a labor organization affiliated with the Committee for Industrial Organization.

III. THE UNFAIR LABOR PRACTICES

We find that on April 10, 1937, the respondent, while engaged at Plant "C," discharged Violet Puckett, an employee at Plant "C," and has at all time since that date refused to employ her, for the reason that she joined and assisted the Union, and engaged in concerted activities with other employees in plants "A" and "C" for the purposes of collective bargaining and other mutual aid and protection.

We find that on or about July 1, 1937, the respondent, while engaged in the operations above described at plants "A" and "C," stopped its operations at Plant "A," locked out and discharged, and has at all times since that date refused to reinstate, a large number of its employees, named in appendix A attached hereto, for the reason that they were engaging in labor union activities and were assisting in the formation and administration of the Union, or had become members thereof, and engaged in concerted activities with other employees in plants "A" and "C" for the purposes of collective bargaining and other mutual aid and protection.

We find that by the acts mentioned above the respondent has discriminated against its employees with respect to hire and tenure of employment for the purpose of discouraging membership in the Union, and has interfered with, restrained, and coerced its employees in the exercise of rights guaranteed in Section 7 of the Act.

Since four employees named in the complaint are not mentioned in the stipulation, we shall, as to them, dismiss the complaint without prejudice.

IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE

We find that the acts of the respondent set forth in Section III above, occurring in connection with the operations of the respondent

described in Section I above, have a close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and have led and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

ORDER

On the basis of the above findings of fact and the above stipulation, and upon the entire record in the case, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders:

1. That the respondent, Hawkeye Pearl Button Company, Muscatine, Iowa, shall cease and desist from violating the Act by:

(a) 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 and other mutual aid or protection, as guaranteed in Section 7 of the Act;

(b) Discouraging membership in Amalgamated Clothing Workers of America, or any other labor organization of its employees, by discriminating in regard to hire or tenure of employment or any terms or conditions of employment.

2. That the respondent, Hawkeye Pearl Button Company, take the following affirmative action, which the Board finds will effectuate the policies of the National Labor Relations Act:

(a) Offer Violet Puckett immediate and full reinstatement to her former position without prejudice to her seniority and other rights and privileges;

(b) Pay back pay immediately to Violet Puckett in the amount of \$459.92;

(c) Offer to the employees listed in appendix A, attached hereto, immediate and full reinstatement, without back pay, to their former positions, or to positions similar and substantially equivalent to those positions held by said employees prior to the lock-out on July 1, 1937, either in plant "A", or the Teichmiller Cutting Plant, or any other button cutting shops in Muscatine, Iowa, which are controlled and directed by the respondent, without prejudice to their seniority or other rights and privileges, dismissing all persons who had been hired by the respondent for the first time since July 1, 1937, in plant "A", or the Teichmiller Plant, or any other button cutting shops in Muscatine, Iowa, which are controlled and directed by the respondent. If, after reinstating the employees listed in appendix A, the respondent determines that business conditions do not require its entire working force, it may reduce its staff, provided the reduction is made

without discrimination against employees because of their union activities or affiliation, following a system of seniority and efficiency;

(d) Post immediately in a conspicuous place at plants "A", "C", the Teichmiller Cutting Plant, and any other button cutting shops in Muscatine, Iowa, which are controlled and directed by the respondent, notices for a period of thirty (30) days after receipt of copies of this order.

It is further ordered that with respect to C. R. Brewer, James Elliott, Hubert Powell, and Fred Schuster, the complaint be, and it hereby is, dismissed without prejudice.

APPENDIX A

Guy R. Barickman	Ed Neely
Lemuel Burrows	Chester Newton
Jesse Coulter	H. C. Newton
Leonard Coulter	Dale Noble
Andrew Diercks	Harry Noble
Dewey Doak	A. Osborn
H. Dohse	Dick Osborn
Leonard Dohse	Bert E. Paul
John Fick	H. Petersdorf
Edgar L. Fletcher	John Plank
Carl Gabriel	Wm. Pohlman
Matt Gillion	John Powell
Henry Hagerman	Gene Proffitt
W. H. Honeycutt	G. O. Rasley
Edward N. Jones	M. Raushenberger
Jack Kneer	R. Raushenberger
J. Knowles	Fred Ray
Tom Land	Fred Richardson
John Lane	Fred Richardson, Jr.
Francis Law	J. W. Richardson
F. Lawrence	Joe Ryan
B. H. Lawson	Edward Smith
James Kochnoff	B. W. Stump
O. L. McGrew	Andrew Thorn
Lloyd McKillip	William Tobias
Noah Means	Otto Valley
Fred G. Miller	Robert Warren
N. M. Morris	Harry Wilson