

In the Matter of NATIONAL WEAVING COMPANY and TEXTILE WORKERS
ORGANIZING COMMITTEE

Case No. R-713.—Decided June 14, 1938

Textile Industry—Investigation of Representatives: controversy concerning representation of employees: majority status disputed by employer—*Unit Appropriate for Collective Bargaining:* hourly and piece-rate production and maintenance employees, excluding supervisory and clerical employees and watchmen; no controversy as to —*Representatives:* eligibility to participate in choice: employees temporarily laid off—*Election Ordered*

Mr. Herbert O. Eby, for the Board.

Mr. Emory B. Denny, of Gastonia, N. C., for the Company.

Mr. Seth P. Brewer, of Charlotte, N. C., for the T. W. O. C.

Mr. Roman Beck, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

On November 13, 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 National Weaving Company, Incorporated,¹ Lowell, 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 February 4, 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 March 11, 1938, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and upon

¹ From the papers filed by the Company and its counsel's statements at the hearing, it appears that its correct name is National Weaving Company, Incorporated.

the T. W. O. C. Pursuant to the notice, a hearing was held on April 25, 1938, at Charlotte, North Carolina, before Webster Powell, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel; T. W. O. C. was represented by its Carolinas Administrator; 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 several rulings on objections to the admission of evidence. The Board has reviewed the rulings of the Trial Examiner and finds that no prejudicial errors were committed. The rulings are hereby affirmed. At the close of the hearing, the Company moved to dismiss the proceeding and the Trial Examiner reserved decision on the motion. We hereby deny the motion.

After the hearing, the Company filed a brief with the Board, which has received due consideration.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

National Weaving Company, Incorporated, is a North Carolina corporation engaged in the weaving of rayon and silk dress goods, linings, and underwear fabrics. The Company's plant is located in Lowell, North Carolina, and it has a sales office in New York City. All of the raw materials used in the manufacture of the Company's products are sent to its Lowell, North Carolina, plant from States other than North Carolina, and fully 90 per cent of its finished goods are shipped outside the State. The estimated annual gross business of the Company was about \$4,000,000. The Lowell plant has 913 looms, and on the Friday preceding the hearing, 710 persons were in the Company's employ.

II. THE ORGANIZATION INVOLVED

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 supervisory and clerical employees and watchmen.

III. THE QUESTION CONCERNING REPRESENTATION

In its petition, T. W. O. C. states that 344 employees in the unit claimed by it to be appropriate have authorized T. W. O. C. to

represent them for the purposes of collective bargaining. The petition further states that there were approximately 550 employees in the bargaining unit deemed by it to be appropriate. The Company denies that T. W. O. C. represents a majority of its employees in such unit. The Company, however, made a motion to dismiss the proceeding on the ground that prior to the filing of the petition T. W. O. C. did not request the Company to bargain with it or to recognize it as the exclusive representative of the employees in the unit claimed to be appropriate. The petition is sufficient to confer jurisdiction to institute this investigation. At the hearings, which is but one step in the investigation, the T. W. O. C. introduced evidence that it represented a substantial number of the workers, and the Company disputed its majority status. We think that these facts show that there is a question concerning representation which warrants the continuance of the investigation to determine that question.

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, 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

The Company and T. W. O. C. agreed that the appropriate unit for purposes of collective bargaining should comprise all hourly and piece-rate production and maintenance employees of the Company at its Lowell plant, excluding supervisory and clerical employees and watchmen. We see no reason to deviate from the unit agreed upon by the parties.

We find that the hourly and piece-rate production and maintenance employees of the Company at its Lowell, North Carolina, plant, excluding supervisory and clerical employees and watchmen, 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 right to self-organization and to collective bargaining and otherwise effectuate the policies of the Act.

VI. THE DETERMINATION OF REPRESENTATIVES

The petition states that T. W. O. C. represented 344 employees of about 550 workers in the appropriate unit. Almost 6 months elapsed between the filing of the petition and the hearing, and the number of employees in the appropriate unit increased to more than 700 at the time of the hearing. Moreover, the evidence discloses that the labor turn-over of the Company during the period of the pendency of this proceeding was very high. Under these circumstances, we find that the question which has arisen concerning representation can best be resolved by the holding of an election by secret ballot.

T. W. O. C. suggested that the persons employed on November 12, 1937, the date of the filing of the petition, be eligible to vote. In view of the substantial increase since that date in the number of employees in the appropriate unit and the high labor turn-over, we think that a later date is preferable. Accordingly, those eligible to vote in the election shall be the persons in the appropriate unit employed by the Company at its Lowell, North Carolina, plant on April 25, 1938, the date of the hearing, excluding those who have since quit, or have since been discharged for cause, but including those who have since been only temporarily laid off.

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 employees of National Weaving Company, Incorporated, Lowell, North Carolina, within the meaning of Section 9 (c) and Section 2 (6) and (7), of the National Labor Relations Act.

2. All hourly and piece-rate production and maintenance employees of the Company, excluding supervisory and clerical employees and watchmen, 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, 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 ordered by the Board to ascertain representatives for the purpose of collective bargaining

with National Weaving Company, Incorporated, Lowell, North Carolina, an election by secret ballot shall be conducted within twenty (20) 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 agent for the National Labor Relations Board and subject to Article III, Section 9, of said Rules and Regulations, among all hourly and piece-rate production and maintenance employees at the Lowell, North Carolina, plant of the Company, who were employed by it on April 25, 1938, excluding supervisory and clerical employees, watchmen, and those who have since quit, or have been discharged for cause, but including those who have since been only temporarily laid off, to determine whether or not they desire to be represented by Textile Workers Organizing Committee, affiliated with the Committee for Industrial Organization, for the purposes of collective bargaining.