

In the Matter of SINGER MANUFACTURING COMPANY and UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA, LOCAL No. 917

Case No. R-848.—Decided July 20, 1938

Sewing Machine Manufacturing Industry—Investigation of Representatives: controversy concerning representation of employees: controversy concerning appropriate unit; refusal by employer to recognize petitioning union—*Unit Appropriate for Collective Bargaining:* production and maintenance employees, excluding clerical and supervisory employees, timekeepers and technicians; controversy as to inclusion of inspectors in—*Representatives:* proof of choice: comparison of pay roll with union membership cards—*Certification of Representatives:* upon proof of majority representation.

Mr. Lee Loevinger, for the Board.

Burlingame, Nourse & Pettit, by *Mr. Arthur E. Pettit*, of New York City, and *Jones, Obenchain & Butler*, by *Mr. Roland Obenchain*, of South Bend, Ind., for the Company.

Mr. James Pascoe, of Fort Wayne, Ind., for the United.

Mr. William F. Guffey, Jr., of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On May 31, 1938, United Electrical, Radio and Machine Workers of America, Local No. 917, herein called the United, filed with the Regional Director for the Thirteenth Region (Chicago, Illinois) a petition alleging that a question affecting commerce had arisen concerning the representation of employees of Singer Manufacturing Company, South Bend, Indiana, 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 June 7, 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.

By stipulation of counsel for all parties entered into on May 25, 1938, hearing on the petition was waived and it was agreed that there should be considered as the record on the petition the record as made at a hearing in a case based upon a complaint against the Company¹ held pursuant to due notice on May 23, 24, and 25, 1938, at South Bend, Indiana, before George Bokart, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel and the United was represented by Mr. James B. Pascoe, international representative of the United, 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. On the basis of that stipulation the record as made in the previous case is considered in every respect as though made at a hearing on the petition. During the course of the hearing the Trial Examiner made several rulings on motions and on objections to the admission of evidence. Thereafter, on July 12, 1938, oral argument on the petition was had before the Board in Washington, D. C. The Company and the United appeared and presented arguments. The Company was permitted to file its memorandum brief. 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

Singer Manufacturing Company is a corporation incorporated in February 1873, under the laws of the State of New Jersey, having its principal place of business at Elizabeth, New Jersey.

The Company is engaged directly and through various subsidiary and affiliated corporations in the manufacture, assembly, sale, and distribution of domestic and industrial sewing machines, electric motors, sewing machine cabinets, vacuum cleaners, electric irons, electric shears, and other household and industrial electrical appliances.

The Company is and at all times in question has been operating a plant located at South Bend, Indiana, herein called the South Bend plant, engaged in the manufacture and distribution of wooden cabinets and in the installation of motors and other equipment in the cabinets.

The raw material moving from points outside the State of Indiana into the South Bend plant aggregates approximately 860 carloads

¹ Case No. XIII-C-621. Stipulation referred to appears at page 345 of the record.

annually, including 620 carloads of coal. The materials and finished products moving from the South Bend plant to points outside the State of Indiana aggregate approximately 680 carloads annually.

II. THE ORGANIZATION INVOLVED

United Electrical, Radio and Machine Workers of America, is a labor organization affiliated with the Committee for Industrial Organization, herein called the C. I. O., admitting to its membership all employees of any manufacturer of electrical machinery and products, instruments, tools and dies, light and medium machinery, machine tools and allied products, as well as all employees engaged in the service, repair, and installation of electrical machinery and equipment, and employees of all electric light and power utilities. Local No. 917 is a unit of the United admitting to membership all employees of the Company's South Bend plant within the jurisdiction of the United.

III. THE QUESTION CONCERNING REPRESENTATION

During the latter part of 1936 employees of the Company's South Bend plant started to organize. On or about December 15, 1936, certain of these employees received a charter from United Automobile Workers, herein called the U. A. W. Temporary officers were elected and on or about March 2, 1937, the first regular election of permanent officers was held. At this time the local organization was known as U. A. W., Local No. 200, herein called Local No. 200.

During the period of affiliation with U. A. W. attempts to bargain with the Company were commenced. On April 24, 1937, representatives of Local No. 200 conferred with officers of the Company. At this conference Local No. 200 announced that it represented a majority of the employees and asked for a collective bargaining agreement. The Company refused to sign any agreement.

On or about July 20, 1937, Local No. 200 voted to affiliate with the United. Most of the members signed application cards again, this time for membership in the United. The officers, books, and all physical properties remained the same as while affiliated with U. A. W. On or about July 23, 1937, the United issued a charter to the organized employees of the Company and the Union then became known as Local No. 917 of the United.

Many conferences were had for the purpose of collective bargaining but no satisfactory agreement was ever reached. At these conferences the Company stated it was meeting the men as employees merely and not as representatives of the United.

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 United alleged in its petition that a unit composed of all production and maintenance employees, exclusive of technicians, timekeepers, supervisory and clerical employees, would be appropriate for the purpose of collective bargaining. The Company declined to commit itself as to what it considered an appropriate bargaining unit. However, the Company did state that inspectors and watchmen were considered by the Company to be management employees rather than production employees. At the oral argument respondent stated that it was not raising any question as to the inclusion of watchmen in the unit, but reiterated its claim that inspectors were a part of the management and should not be included in the unit. The United contended that inspectors are production employees and should be included in the unit. We think the duties of watchmen place them within the unit, and since the United expressed no objection to their inclusion, we shall include them in the unit. The inspectors examine the products as they come from the workmen, correct minor defects, and where major defects are found, return the products to the workmen for correction. We think this is a part of production and we shall include inspectors in the unit.

We find that the production and maintenance employees of the Company's South Bend plant, excluding clerical and supervisory employees, timekeepers, and technicians, 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 United alleged in its petition that it represented approximately 689 out of approximately 890 eligible employees. The evidence adduced at the hearing substantiates this allegation. Since there is no evidence concerning the total number of employees in the appropriate unit as of the date of the hearing, and since the Company submitted

data taken from the pay roll as of March 19, 1938, without objection from the other parties, we shall consider March 19, 1938, as the appropriate pay-roll date for purposes of determination of representatives.

It appears from the record that on March 19, 1938, the Company's pay roll showed 942 employees. Of this number 890 were engaged in production and maintenance. The membership cards of the United include 689 of the 890 production and maintenance employees on the Company's pay roll as of this date. Hence, it appears that on this date the United represented more than 77 per cent of all employees then in the appropriate unit. In addition, the Company stated several times at various conferences, as well as at the hearing, that it was not questioning the representation of a majority by the United.

We find that the United has been designated and selected by a majority of the employees in the appropriate unit as their representative for the purposes of collective bargaining. It is, therefore, the exclusive representative of all the employees in such unit for the purposes of collective bargaining, and we will so certify.

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 Singer Manufacturing Company at South Bend, Indiana, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The production and maintenance employees of the Company's plant at South Bend, Indiana, excluding clerical and supervisory employees, timekeepers, and technicians, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the National Labor Relations Act.

3. United Electrical, Radio, and Machine Workers of America, Local No. 917, is the exclusive representative of all the employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the National Labor Relations Act.

CERTIFICATION OF REPRESENTATIVES

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 CERTIFIED that United Electrical, Radio and Machine Workers of America, Local No. 917, has been designated and selected by a majority of the production and maintenance employees of Singer Manufacturing Company at its plant at South Bend, Indiana, excluding clerical and supervisory employees, timekeepers, and technicians, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, United Electrical, Radio and Machine Workers of America, Local No. 917, is the exclusive representative of all such employees for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.