

In the Matter of JOHN BLOOD & COMPANY, INC., A CORPORATION *and*
AMERICAN FEDERATION OF HOSIERY WORKERS, BRANCH No. 69

Case No. R-20.—Decided March 20, 1936 :

Hosiery Industry—Unit Appropriate for Collective Bargaining: eligibility for membership in only organization making bona fide effort at collective bargaining; production employees—*Representatives:* proof of choice: petition designating—*Certification of Representatives:* after investigation but without election.

Mr. Gerhard P. Van Arkel for the Board.

Mr. Isadore Katz, of Philadelphia, Pa., for the Union.

Mary Lemon Schleifer, of counsel to the Board.

DECISION

STATEMENT OF CASE

A petition for investigation and certification of representatives, pursuant to Section 9(c) of the National Labor Relations Act, approved July 5, 1935, and Article III, Section 1 of National Labor Relations Board Rules and Regulations—Series 1, was filed with the Regional Director for the Fourth Region by Branch No. 69, American Federation of Hosiery Workers (hereinafter referred to as Branch No. 69) on November 29, 1935, alleging that a question affecting commerce had arisen concerning the representation of employees in the Boyertown mill of John Blood & Company, Inc., Boyertown Pennsylvania (hereinafter referred to as the Company). The National Labor Relations Board, acting pursuant to Article III, Section 3 of National Labor Relations Board Rules and Regulations—Series 1, authorized the Regional Director to conduct an investigation. On January 27, 1936 the Regional Director issued a notice of hearing, copies of which were duly served on the Company and upon Branch No. 69.

Pursuant to the notice of hearing, a hearing was held February 10, 1936 at Philadelphia, Pennsylvania, before Robert M. Gates, duly designated by the National Labor Relations Board to act as Trial Examiner. The respondent was not represented by counsel but Ernest Blood, President and General Manager of the Company, appeared at the hearing and testified concerning the business of the Company.

Upon the evidence adduced at the hearing and from the entire record now before it, including the transcript of the hearing and exhibits introduced, the Board makes the following:

FINDINGS OF FACT

1. John Blood & Company, Inc., a corporation organized under and existing by virtue of the laws of the State of Pennsylvania, is engaged in the manufacture of full fashioned hosiery. It owns and operates two units, a mill in Boyertown, Berks County, Pennsylvania, where hosiery is knit and finished in an undyed condition, and a plant at Philadelphia, Pennsylvania, where the hosiery is dyed and packed for shipment. The Boyertown mill has a monthly capacity of approximately 8,000 dozen pairs of hosiery.

The Company has a registered trade mark and states in its application for registration "that said Trade Mark is used by said corporation in commerce among the several States of the United States."

2. Silk is the principal material used by the Company in the manufacture of hosiery. The silk is imported from Japan in a raw state and is purchased by the Company from importers located principally in New York City. After purchase, the Company has the raw silk shipped to a throwster in Bethlehem, Pennsylvania where it is prepared and wound on bobbins for knitting and is then delivered by the throwster to the Boyertown mill of the Company. Between 6,000 and 6,700 pounds of raw silk are purchased by the Company per month. Small quantities of silk already thrown are occasionally purchased by the Company. The record does not show where this silk is purchased.

Cotton in small quantities is also used in the knitting of hosiery. All cotton used by the Company is purchased from a company in Easthampton, Massachusetts.

Needles used on the knitting machines are purchased by the Company in Torrington, Connecticut.

3. The hosiery is manufactured in an undyed condition in the Boyertown mill and is there placed in large canvas bags and conveyed by a contract carrier by truck to the Philadelphia plant. At this plant the hosiery is dyed, marked and shipped according to orders received.

4. Three classifications of hosiery are manufactured at the Boyertown mill. A small portion is manufactured for disposal under the Company's trade mark "True Shape". Another classification consists of singlewelt hosiery made by the Company as the licensee of a patent owned by a resident of New York. Single welt hosiery is sold under the names of jobbers or retailers. Manufacturing of single welt hosiery comprises only a small portion of the Company's business.

The balance, comprising a major portion of the hosiery manufactured by the Company, is manufactured for sale to jobbers and retailers to be sold by them under their own names.

5. Hosiery manufactured to be sold under the trade name "True Shape" is, with the exception of two accounts, all sold by a jobber in Philadelphia. All hosiery manufactured under the license is sold in New York City by a sales agent of the owner of the patent. The balance of the hosiery made by the Company is sold by a salesman employed by the Company and by the Company's president, practically all of these sales being made in New York City. All sales of hosiery are made on open accounts.

6. All three classes of hosiery are delivered by the Company either by truck or by parcel post to the purchasers. A majority of the sales are to purchasers located in New York. The balance of the purchasers are located throughout the United States. Eighty-five per cent of the purchasers from the Company in 1935 were located outside the State of Pennsylvania. The total sale price of hosiery sold by the Company in 1935 was approximately \$335,000.

7. All of the aforesaid constitutes a continuous flow of trade, traffic and commerce among the several States.

8. Branch No. 69, American Federation of Hosiery Workers, is a labor organization which was organized following a strike in 1933 in the full fashioned hosiery mills in Berks County. All workers engaged in the manufacture of hosiery, excepting those in a supervisory capacity, are eligible for membership. The membership of Branch No. 69 is composed of workers engaged in the manufacture of hosiery in other mills of the vicinity as well as employees of John Blood & Company, Inc.

9. In September, 1933, following the strike in the full fashioned hosiery mills in Berks County, elections were held in each of the mills by the National Labor Board to determine the choice of employees as to their representatives for the purposes of collective bargaining. The employees of the Company did not participate in this strike since the management of the Company closed down the Boyertown mill to forestall any such action. The Boyertown mill was closed down for the entire period of the strike, which lasted about eight weeks. In the election held in the Boyertown mill the employees were given the opportunity of selecting between a non-union committee appointed by the superintendent of the Company and Branch No. 69. The non-union committee received the majority of votes and was certified to the Company as the representative for the purposes of collective bargaining. No election has been held at the Boyertown mill since September, 1933 to choose new committee members.

10. The non-union committee made two attempts to engage in collective bargaining with the Company. The first attempt was in 1933 following the election; the second in the Spring of 1934. The Company met with the committee at its request in 1933 and agreed to a division of sizes of hosiery among the employees so that all employees would be treated equally in the distribution of work. The Company, however, lived up to this agreement for only two weeks. When the committee signified its desire to meet with the Company in the Spring of 1934 the management refused to meet with it. Shortly thereafter all three members of the non-union committee became members of Branch No. 69 and made no further attempts to act as a non-union collective bargaining committee.

11. On September 23, 1935, after Herbert W. Payne, representative of the American Federation of Hosiery Workers, had been selected by Branch No. 69 to negotiate with the Company, he called Ernest Blood, President and General Manager, and requested an appointment to meet him for the purpose of bargaining collectively. Blood replied that he did not have to meet Payne because of the selection of the non-union committee in 1933.

Immediately after this conversation Payne sent a registered letter to Blood, stating that he had been elected by Branch No. 69 to represent them in collective bargaining with the Company and requesting Blood to meet with Payne and a union committee to discuss wage rates of employees engaged in footing and legging operations. On September 28, Blood replied that, ". . . the employees of this Company, quite some time ago, selected a committee out of their own number to represent them in matters concerning their employment, and we are not aware of any change. In view of this we do not see how we can entertain your request."

12. A petition was prepared by Branch No. 69 immediately after the receipt of Blood's reply. The petition read: "We, the undersigned workers of the John Blood Hosiery Company, desire to be represented in collective bargaining with the Company by the union committee and its regularly elected representative, H. W. Payne of the American Federation of Hosiery Workers." This petition was circulated among the employees in the Boyertown mill of the Company between September 28 and October 9, 1935. Ninety-four employees voluntarily signed this petition.

13. On October 9, 1935 Payne, by registered mail, informed Blood that since:

" . . . you are unaware of any change in the sentiment of your workers since 1933, I have secured the names of a good majority of your workers signed to a petition expressing their wish to be represented by the union committee and its representative. In

view of this expression on the part of your workers, I am again requesting that you meet with this committee and myself . . . If there is any doubt in your mind as to the wishes of your employees, in this respect, I shall be very glad to submit to you this petition. . . .”

On October 14, 1935, Blood replied that:

“We assume you are familiar with, and therefore call your attention to the established procedure in such matters and that all workers, including the minority, are entitled to a free voice in the selection of their representative. Nothing in your letter indicates that such a course has been pursued. We cannot, therefore, say we are free of doubt in the matter . . . We are always interested in any question affecting our employees, but are not aware of any matter on which they desire to confer with us at this time.”

14. A question concerning the representation of employees has arisen in the Boyertown mill of the Company.

15. The manufacture of full fashioned hosiery is confined to approximately eighteen states of the United States, the largest center of manufacture being in Pennsylvania. The reports of the United States Department of Commerce, Bureau of Census, for 1929, state that 3,400,000 dozen pairs of pure thread silk hosiery were produced in Pennsylvania in that year. The State of North Carolina produced the next largest amount, 551,000 dozen pairs. Substantial amounts were also produced in the States of New Jersey, New York, Massachusetts, Tennessee, Wisconsin, Georgia and Indiana.

The market is highly competitive and seasonal. Due to the changing demands for colors, the policy of the industry is not to keep an inventory of dyed hosiery. Orders are generally placed by purchasers in advance. The hosiery is then held by the manufacturer until the purchaser indicates the colors desired and is then dyed by the manufacturer for immediate shipment. When seasonal demands which occur in the spring and fall arise, a stoppage in production in one or more plants caused by strikes or any other cause, causes a cancellation of orders and diversion of the business to other centers of production.

There were no strikes in 1935 in hosiery mills having agreements with the American Federation of Hosiery Workers. It is estimated that in the 10 to 20 strikes which occurred during the same period in mills where there was no agreement 2,000 to 3,000 workers were involved and approximately 275,000 to 325,000 man days were lost. Practically all of these strikes were caused by the refusal of employers to bargain collectively.

16. The question concerning representation which has arisen in the Boyertown mill of the Company tends to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

17. The employees engaged in production in the Boyertown mill of the Company, and not including those engaged as watchmen, shippers, fixers or as clerical or supervisory employees, constitute a unit appropriate for the purposes of collective bargaining.

18. Blood testified that in September, 1935, there were about 133 or 134 employees in the Boyertown mill. The petition which was circulated during this period was signed by 94 employees. This petition is sufficient evidence on which to base a certification of representatives. The petition was circulated by Payne and the three members of the committee who had been selected to represent Branch No. 69. Each of these persons testified that the petition offered in evidence was the original petition and as to which signatures he had secured that the petition was voluntarily signed in his presence and without coercion, and that each person who signed the petition was an employee of the Company.

The evidence shows that the respondent employs seven persons, including two watchmen, one fixer, one bookkeeper, one shipper, one forewoman and one superintendent who, by the finding in paragraph 16, are excluded from the appropriate unit. The forewoman is identified as Marjorie Leh, the superintendent as Charles Boger, and the fixer as Irvin Nagel. None of these names appears on the petition. Assuming that the other four persons not engaged in production signed the petition, ninety persons in the appropriate unit desire to be represented by Branch No. 69.

The petition was signed by a majority of the persons in the unit appropriate for the purposes of collective bargaining.

CONCLUSIONS OF LAW

1. A question affecting commerce has arisen concerning the representation of employees in the Boyertown mill of the Company, within the meaning of Section 9 (c) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

2. Those employees engaged in production in the Boyertown mill of the Company, and not including those engaged as watchmen, shippers, fixers or as clerical or 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.

3. Branch No. 69, American Federation of Hosiery Workers, having been selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, is, by virtue of Section 9 (a) of the National Labor Relations Act, the

exclusive representative of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment.

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, approved July 5, 1935, and pursuant to Article III, Section 8 of National Labor Relations Board Rules and Regulations—Series 1,

IT IS HEREBY CERTIFIED that Branch No. 69, American Federation of Hosiery Workers has been designated and selected by a majority of the employees in the Boyertown mill of John Blood & Company, Inc., engaged in production, and not including those engaged as watchmen, shippers, fixers or as clerical or supervisory employees, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, Branch No. 69, American Federation of Hosiery Workers, is the exclusive representative of all such employees for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment. •