

In the Matter of FORD A. SMITH, BLANCHE F. SMITH AND WILLIAM C. SHANKS, PARTNERS, DOING BUSINESS AS SMITH CABINET MANUFACTURING COMPANY *and* NATIONAL FURNITURE WORKERS, LOCAL No. 3

Case No. C-36.—Decided June 13, 1936

Furniture Industry—Interference, Restraint or Coercion: expressed opposition to labor organization, threats of retaliatory action; persuading employees to resign from union; inducing union leader to resign from union; attempting to secure disclosure of identity of union members; circulating anti-union petition in plant; by civic organization—*Discrimination:* discharge; lockout—*Reinstatement Ordered, Non-Strikers:* employees discharged; employees locked out—*Back pay:* awarded.

Mr. Philip G. Phillips and *Mr. David I. Persinger* for the Board.
Mr. Frank S. Houston, of Salem, Ind., for respondents.
Mr. Stanley S. Surrey, of counsel to the Board.

DECISION

STATEMENT OF CASE

In December, 1935, National Furniture Workers of America, Salem Local No. 3, hereinafter referred to as the Union, filed a charge¹ with the Regional Director for the Eleventh Region against Ford Smith, doing business as Smith Cabinet Manufacturing Company, Salem, Indiana, charging Smith with violations of Section 8, subdivisions (1) and (3) of the National Labor Relations Act, approved July 5, 1935, hereinafter referred to as the Act. On December 24, 1935, the Board issued a complaint against Smith, said complaint being signed by the Regional Director for the Eleventh Region and alleging that Smith had committed unfair labor practices affecting commerce within the meaning of Section 8, subdivisions (1) and (3), and Section 2, subdivisions (6) and (7) of the Act. Smith filed an answer to the complaint in which he denied the allegations respecting the unfair labor practices and further denied that he individually was engaged in business under the name Smith Cabinet Manufacturing Company, but stated that he was a member of a partnership so engaged. Thereupon, on January 11, 1936, a complaint signed by the Regional Director for the Eleventh Region

¹ A less inclusive charge had previously been filed in October, 1935.

was issued by the Board against Ford A. Smith, Blanche F. Smith and William C. Shanks, partners, doing business as Smith Cabinet Manufacturing Company, hereinafter referred to as the respondents, and duly served upon the parties. This complaint² charged the respondents with violations of Section 8, subdivisions (1) and (3), because of the discharge of and refusal to reinstate 19 named employees for the reason that they had joined and assisted the Union and engaged in concerted activities with other employees at the respondents' plant for the purpose of collective bargaining and other mutual aid and protection. The respondents filed an answer in which the allegations respecting the unfair labor practices were denied.

By order of the Board, dated January 13, 1936, the proceeding was transferred to and continued before the Board in accordance with Article II, Section 35 of National Labor Relations Board Rules and Regulations—Series 1. Upon due notice to the parties a hearing was held from January 20, 1936, through January 22, 1936, at New Albany, Indiana, before Robert M. Gates, duly designated by the Board as Trial Examiner, and testimony was taken. Full opportunity to be heard, to examine and to cross-examine witnesses and to introduce evidence bearing upon the issues was afforded to all parties.

Upon the entire record in the case, including the pleadings, the stenographic transcript of the hearing and the documentary and other evidence received at the hearing, the Board makes the following:

FINDINGS OF FACT

I. THE RESPONDENTS

The respondents, Ford A. Smith, Blanche F. Smith and William C. Shanks, are partners engaged at their plant in Salem, Indiana, in the manufacture, sale and distribution of radio cabinets and similar wooden articles of furniture, under the name Smith Cabinet Manufacturing Company. The answer of the respondents states in Paragraph 2 that: "in the course and conduct of its business, as aforesaid, it causes and has continuously caused large quantities of raw materials used in the manufacture of its cabinets and similar wooden furniture articles to be purchased and transported in interstate commerce from and through states of the United States other than the State of Indiana, to the Salem Plant in the State of Indiana, and causes and has continuously caused substantially all the cabinets and similar wooden furniture articles produced by it to be sold and

² Minor amendments to the complaint were made at the hearing.

transported in interstate commerce from the Salem Plant in the State of Indiana, to, into, and through states of the United States other than the State of Indiana, all of the aforesaid constituting a continuous flow of commerce among the several states." A stipulation of the respondents to the same effect, placed in evidence as an Exhibit, also indicates the sources of the various raw materials. From that stipulation and the other evidence it appears that all of the lumber, with the exception of the plywood, used by the respondents comes from points outside of Indiana, namely, Louisiana, Tennessee and Arkansas; the plywood is obtained in Indiana; the boxes or crates used in shipping the cabinets and the lacquer are all shipped into Indiana; the stains come from Philadelphia; Pennsylvania; Chicago, Illinois, and in a minor proportion (10%) from Indianapolis, Indiana.

The respondents at present manufacture radio cabinets pursuant to orders. Their business is a seasonal one, the busy season commencing in July and continuing until the fall. In 1935 the respondents sold \$580,000 worth of cabinets, 90% of which went to a Philco concern in Philadelphia, Pennsylvania, and the remainder to the Crosley concern in Cincinnati, Ohio. The former were shipped by rail, the latter by truck. The respondents had orders only from these two firms.

Ford A. Smith manages the respondents' business and William C. Shanks acts as the secretary and bookkeeper, his duties being financial and clerical in nature, so that he is not directly concerned with the operating side of the business. Blanche F. Smith is not active in the business. The superintendent is George Newlon, and he is assisted by Chester M. Smith, Ford Smith's son. Chester Smith has the responsibility of hiring new employees, and both he and the superintendent have authority to discharge employees. There are five foremen, each in charge of one department—mill room, cabinet construction room, stain and fill room, finishing room and packing and shipping room—and each possesses authority to discharge employees. The respondents employ approximately 400 persons, although the number fluctuates. The plant at capacity operates on a 10-hour day, six-day week basis, and the average earnings of the employees for such a period are \$18, the average wages running from 28 to 35 cents per hour.

After an order is obtained by competitive bidding with other manufacturers, the respondents purchase the necessary raw materials and commence manufacturing the desired cabinets. The rough lumber is run through the dry kiln to remove moisture. It is then cut to the proper dimensions and dressed and shaped. Next, it is built into cabinets, which are then painted and polished. The finished cabinets

are sent to the packing and shipping room. As soon as the number of cabinets required to complete a carload or truckload is reached, the cabinets are shipped pursuant to the order. The raw materials and the cabinets manufactured therefrom thus flow in a steady stream from room to room, so that commencing with the initial order for the cabinets, the process of filling this order by manufacture and shipment is continuous and uninterrupted. The placing of the order and its acceptance by the respondents are the first steps in a commercial transaction that is consummated only when the cabinets manufactured according to the specifications in the order are received and paid for by the concern placing the order.

On the basis of the above facts and respondents' admission in the answer and stipulation, we find that the above operations of the respondents constitute a continuous flow of trade, traffic and commerce among the several States.

II. THE UNFAIR LABOR PRACTICES

A. *Formation of the union*

Until the summer of 1935 there had never been a labor organization in the respondents' plant. However, in July, 1935, a Local of the National Furniture Workers of America was organized among the respondents' employees. A charter was issued to the Local, officers were elected, meetings held and dues collected. The first meeting was on July 17. At the second meeting, held on July 24 and attended by approximately 100 employees, the following officers were chosen: Olan Collier, President; Ralph Walters, Financial Secretary; and Harold Collier, Treasurer. F. Smith and Newlon attended the first meeting; three foremen attended the second but were asked to leave when the meeting formally commenced. Further meetings were held on July 31 and August 5. Organization progressed at a rapid rate, so that at one time in this period the membership was approximately 225 employees.

In view of its purposes and membership the Union is a labor organization.

B. *The first discharges*

Only a week had elapsed when the organization of the Union met with opposition from the respondents. On July 25 the three officers, Walters and the two Colliers, were called into the superintendent's office and there met Newlon and Chester Smith. The latter said, after mentioning such matters as expenses, wages and unfavorable freight rates, that his father would not tolerate a union in the plant. He then asked the three to resign their official positions in the Union.

The Union officials said that they would think it over and indicated that they might resign. As they left Smith told them that he would talk the matter over with his father that night. The next day, July 26, they were summoned to the office of Ford Smith. He spoke more bluntly: "if we thought anything of our jobs we had better get out of it (the Union) and leave it alone". "He did not think that a fellow could be an officer of a union and hold a job also"—and so he asked them to resign. Again the officers indicated that they would resign. The last meeting on this matter was held on July 27, in Newlon's office. The superintendent, in the presence of Chester Smith, gave the three officers a statement to sign which announced their withdrawal from the Union. The statement also recited that the Union was "an unfit thing for the factory and not good for the men." Harold Collier signed the statement and resigned as Treasurer. At the hearing he testified that he signed the statement and resigned solely to retain his job. Olan Collier refused to sign and was discharged on the spot. Walters also refused to sign. The next day, July 28, he was discharged by Newlon, who merely said that "he was sorry that it had ended in this way".

The discharges of Olan Collier and Walters³ require no discussion; it is obvious that the two were discharged for their union activity. The respondents simply struck at the leaders of the new organization in the hope that they could thus stop its growth. At the hearing they attempted to explain their action by claiming that both of the officers were discharged for promoting the Union on company time. Yet all of the evidence adduced to support this claim shows merely that they may have asked several employees in casual conversations whether they desired to join the Union and that upon receiving an answer, favorable or unfavorable, they discontinued discussion. The employees addressed did not mention the matter to the foremen at the time. There is no indication that the efficiency of the employees of the plant was in any way affected. On the contrary, the evidence indicates that some conversation is permitted among employees during working hours. Both Olan Collier and Walters had been employed for over seven years by the respondents. Such employees are not suddenly discharged for casual conversations, even when they are forbidden, where the subject of the conversations is innocuous. It is only when such conversations involve a union do we find the employer applying to the minor infraction the severest punishment that he possesses. Even if the respondents' claim is to be accepted, under the circumstances it would still be

³ Collier was receiving 32¢ an hour as an inspector and Walters 25¢ an hour as a foreman at the time of their discharge. Collier had been employed for 10 years, Walters for 7½ years. About the middle of November Walters applied for work and was informed by C. Smith that there was none then available but that they might be able to employ him in the future.

obvious that these two were discharged solely because of their membership and leadership in the Union and as a consequence of the respondents' desire to halt its progress.

The respondents' attack on the Union did not cease with these discharges. On August 1, before the end of the working day, the employees were informed by the foremen that Ford Smith would address them in a group. As the men gathered at the designated place, printed slips were passed out by the office boy, some of the foremen, and possibly some employees. The slips contained the words, "I am for _____" and had a place for signature. Smith talked briefly about the costs of the business, the losses the respondents had been suffering, the contracts that had to be filled, the disadvantages in freight rates under which he claimed the respondents operated, the inability to increase wages, "union or no union", and finally stated that he wanted to know upon which employees he could depend. He then asked all of the Union employees to step to one side and all of the loyal employees to the other. No one moved. Smith then asked "Where are all of you union men that was down at the armory last night?" Receiving no answer, he stated that since the men did not want to show themselves openly, they should fill in the slips passed out before the meeting, by inserting the word "Union" or the word "Company" in the blank space and hand the signed slips to the foremen next morning. The next day the foremen collected the slips, in some cases urging reluctant employees to fill the blank and sign the slip.

This meeting was clearly directed against the Union. Such group meetings were rarely held,—a similar meeting had not taken place in the last two or three years. The clean choice presented to the employees—"for the Union" or "for the Company"—unmistakably indicated to them the respondents' attitude toward the new organization. In this regard the respondents presented a number of witnesses—foremen and employees—who testified that during the entire speech Smith did not once mention the word "union." In the light of the circumstances under which the speech was made, such testimony cannot be accepted as credible. Smith's own testimony regarding the speech is perhaps the most revealing of all, for it sums up his whole philosophy of union organization. He stated that he was really surprised when all of his employees indicated that they were loyal, because he understood that some of them had joined the Union; that he could not know anything about the Union, since none "of the loyal boys, or the boys I could depend upon", were permitted to attend its meetings.

On August 2, when the foremen were collecting the slips passed out at the meeting held the day before, one of the employees, Ralph Dalton, presented his foreman with an unsigned slip which he re-

fused to sign. He was immediately discharged by the foreman. He had been employed for six years at the respondents' plant and had joined the Union on July 24. No reason was given for the discharge at the time. At the hearing Newlon testified that he had talked about joining the Union to other employees during working hours and, further, that he "had acted indifferent and I just thought he didn't want to work any more". Under the circumstances we likewise find that Dalton was discharged because of his membership in the Union.⁴

C. The August 5 lockout

On August 5, 1935, a Monday, the respondents took the final step in their attack upon the Union. Late in the afternoon of that day the plant was completely closed down. This action was taken without any notice or warning to the employees, many of whom testified at the hearing that their work was progressing in the usual fashion when the plant was suddenly closed. The respondents had sufficient orders on hand to warrant continued operation of the plant, so that the closing may not be explained on the basis of a lack of orders. In their testimony they offered several versions, all somewhat confused, of the action taken. Bird, a manufacturer who supplies the respondents with plywood, testified that after a telephone conversation with Ford Smith on the morning of August 5, he came to the plant, spent 15 to 20 minutes walking through various rooms, and then conferred with Ford Smith and Shanks for about two hours. He stated that his brief inspection revealed that "something unusual" was in the air, that some of the employees seemed interested in matters other than their work. At the conference it was agreed that in view of the "condition" confronting the respondents, the only course open to them was to close the plant. Both Bird and Ford Smith testified that the "condition" referred to above was the prohibitive cost of production. Smith stated that on Saturday, August 3, and again on Monday, August 5, costs had suddenly risen to such a level that they had made production clearly unprofitable. In his opinion the situation could be met only by a closing of the plant; it was the only way that he knew to stop the rise in costs. Bird in his testimony stated that the respondents' "disturbed relationship" with their employees did have a bearing on the situation and that he had advised Smith that the respondents could not continue in business if "a labor disturbance" occurred in the plant. Newlon, the superintendent, also testified that the plant was closed because of the greatly increased costs. He had notified the foremen of the closing, stating that the plant was "shutting down indefinitely". One of the foremen, Simpson, testified that production in his department fell to zero, so that he simply told the

⁴ At the time he was receiving 18¢ an hour as a helper in the mill room.

men to leave. Apparently he took no steps to ascertain what was causing the claimed drop in production or to remedy the situation.

The obvious weakness of the respondents' explanation serves to strengthen our belief that on August 5 the respondents deliberately locked out all of their employees in an effort to check the rising tide of organization among them. The respondents had no experience in dealing with labor unions. As shown above, their first reaction upon learning of the organization of their employees was one of frank antagonism. There followed a deliberate attack upon the Union. Its officers were swiftly discharged. Next, the employees were plainly advised of the respondents' hostility toward organization in a speech by the active head of the business, Ford Smith. It would be only natural that such measures should lead to restlessness and apprehension among the Union members, and it is quite possible that the efficiency of the plant was impaired. But a description of such a situation in terms of suddenly increased and prohibitive costs of production necessitating a closing of the plant is plainly unrealistic. We believe it obvious that the respondents realized that their repressive measures were not succeeding and, either out of bewilderment or calculation, sought refuge in conduct which at least would rid them of an immediate problem and might possibly accomplish their ultimate purpose. The closing of the plant on August 5 must therefore be regarded as a mass discharge of the respondents' employees aimed solely at those among them who favored the Union.

Further support for such a finding is found in several later events. On August 9 a meeting of the citizens of Salem was held, the handbill advertising for the meeting stating, "Do you want a factory and no union, or a union and no factory?" One of the prominent townsmen presided. Smith, Newlon and the respondents' attorney spoke, the former stating that he would not operate a union shop.⁵ Later, on August 10, a Saturday, the employees were paid the amounts owing to them when the plant closed. Payment was made in the respondents' office. With the pay envelopes slips were passed out by an employee named Thixton, Shanks, and Ford Smith, one form of the slips containing the following:

"I hereby state that I was coerced to join the Union at Salem by threats that I would not be allowed to work unless a member. I have withdrawn from the Union and want the Smith Cabinet Mfg. Co. to operate as an open shop.

"I was an employee of Smith Cabinet Mfg. Co. on and before Aug. 5, 1935."

⁵ Many of respondents' witnesses testified that in this speech Smith likewise did not refer to the Union. Such testimony under the circumstances of the meeting is too fanciful to warrant our giving weight to it.

The other form, whose import was similar, referred to non-members of the Union. The employees were asked if they wanted to sign the slips. The respondents denied any connection with either of these events and Thixton testified that he and a fellow employee named Hottel conceived and arranged both the meeting and the printing of the slips passed out on pay day. We cannot give any credence to Thixton's testimony in this regard, for the execution of the acts in question required more ability and competence than Thixton possessed, judging from his entire testimony. But even conceding for the sake of argument that the respondents did not arrange for the slips⁶ or the meeting, they certainly approved of the steps taken and participated on both occasions in a fashion that unmistakably evidenced their attitude toward the Union.

The plant reopened on August 17. In the meantime many of the employees, both Union and non-Union, had left Salem to find employment in neighboring towns. Inasmuch as the complaint in this case concerns the effect of the respondents' unfair labor practices upon named employees, it is appropriate to consider their cases individually.

D. *Consideration of individual cases*

*Ottis Devin.*⁷ On August 14 Devin accompanied another employee, Alva Overton, to a conference with Ford Smith. Overton desired to obtain a recommendation from Smith that he could use in securing employment elsewhere. Smith refused to give him any recommendation until he would present an affidavit stating that he had withdrawn from the Union. Devin then said: "It is rumored around that all of us fellows that joined the union won't have any jobs when you open up. Is that right?" Smith replied: "That is a fact. All of you fellows who joined the union are through, as far as I am concerned. When I open up the plant, I expect to run it with loyal men." Devin did not make any further application, either before or after the opening of the plant. At the time of the hearing he did not have regular employment. Prior to August 5

⁶ Ford Smith testified that he had no part in the printing or circulation of the slips. However, the answer filed by the respondents to the first complaint and sworn to by Ford Smith recites in Paragraph 6: "Respondent admits that on or about the 31st day of July 1935, the said Smith Cabinet Manufacturing Company by and through its agents, did submit to their employees a certain writing for their consideration and signature which said statement was and is in the words and figures followed to-wit:

"I hereby state that I have not joined the Union in Salem and want the Smith Cabinet Mfg. Co to operate as an open shop.

"I was an employee of Smith Cabinet Mfg Co. on and before August 5, 1935" but respondent specifically denies that he, at said time or at any time, did threaten his employees that they would never be allowed to work unless they signed said statement or would withdraw their membership and support from the Union."

⁷ Referred to in complaint as "Otis Devin."

he had been receiving 25¢ an hour as a box and crate maker. He had been employed by the respondents for eight years.

Alva Overton. As stated above, Overton was refused a recommendation by Smith because of his union membership. Moreover, he was informed by Smith's answer to Devin's question that the Union members would not be employed when the plant opened. Shanks had previously said to him that "These union men are not going to have any job here." After the conversation with Smith, Overton left town and secured a position in a cabinet plant located at Marion, Indiana, which is about 187 miles from Salem. In October he wrote to Smith and requested reinstatement in his former position. Smith replied that he would not suggest his leaving his present position. Overton at the time of the hearing had not been reinstated, but was still employed at the Marion plant. His family still lives in Salem. He had been receiving 30¢ an hour prior to August 5 as a helping foreman.⁸ He had been with the respondents for 13 years.

*James Ezra Lloyd.*⁹ About three weeks after the plant opened, Lloyd inquired of Ford Smith if he could return to work. Smith asked if Lloyd had been one of the employees who had driven through the town on a truck announcing a Union meeting, and Lloyd acknowledged his participation. Smith then said: "You fellows are trying to make an ass out of me, and you can go ahead with the rest of the gang." At the time of the hearing Lloyd had not been given employment by the respondents and was unemployed. Before August 5 he had worked in the packing and cabinet rooms, receiving 28¢ an hour. He had been employed by the respondents for about 14 years.

*Talmdge Hattabaugh.*¹⁰ Some time in October Hattabaugh applied to Chester Smith for a position in the plant. Smith informed him that he would first have to tear up his "card" and resign from the Union. Hattabaugh refused. He had not been given employment at the time of the hearing and did not have other work. Prior to August 5 he had received 28¢ an hour, working in the finishing and cabinet rooms. He had been with the respondents for 12 to 13 years.

*Lester Hinds.*¹¹ About the middle of November Hinds applied to Ford Smith for employment. In previous conversations with Hinds,

⁸ On either August 5 or August 6 Overton and some other Union members persuaded a conductor on the railroad serving the plant not to deliver a car of boxes which the respondents expected. As a result, delivery was delayed for a day. The respondents apparently urge this incident as a ground for not now reinstating Overton. Their contention is untenable; such activity is within the bounds of legitimate union activity during a strike or lockout.

⁹ Referred to in the complaint as "Ezra Lloyd".

¹⁰ Referred to in the complaint as "Tal Hattabaugh".

¹¹ Referred to in the complaint as "Lester J Hinds".

Smith had indicated his hostility to the Union. When Hinds requested employment, Smith said he should see the employment manager at his regular office. Hinds then said that he desired to know definitely if he could obtain a position in the plant at any time in the future since, if not, he would probably be forced to leave Salem. From the record it is clear that Hinds was in effect asking whether his membership in the Union barred him from securing employment with the respondents. Smith replied that it would be best for him to leave. Hinds had not been given employment by the respondents at the time of the hearing and was unemployed. He had been receiving 28¢ an hour as a mill room inspector and had been employed for eight years.

Bert Stewart. Stewart was with Hinds when he requested employment in the middle of November. Previously, Smith had told him in a personal conversation that he would not employ Union men in the plant. On the occasion under consideration, Smith said that the matter was over and "he did not care to hear any more about it." Stewart was unemployed at the time of the hearing. He had been receiving 25¢ an hour as a spray man in the finishing department prior to August 5 and had been in the respondents' employ for 16 years.

Ernest Peace and Roger Martin. Both of these employees did not apply when the plant opened nor have they made application since that time. They testified that they thought such action would be futile in view of the respondents' attitude and the rumors that Union members would not be employed. They had left Salem prior to the opening of the plant in order to look for employment elsewhere. At the time of the hearing Martin was employed at Connersville, Indiana, about 120 miles from Salem, and Peace at Monticello, Indiana, about 200 miles from Salem. The families of both men still reside in Salem and they desire employment at the respondents' plant. Prior to August 5 Martin and Peace each received 28¢ an hour as inspectors. The former had been employed for eight years, the latter for six.

The respondents did not recall to work any of the above employees when the plant opened on August 17. In view of their motive in closing the plant, upon its reopening they were under a duty to offer reinstatement to those persons employed on August 5, so that the failure of some of the employees to make application is immaterial. We find that all of the employees considered above were discharged on August 5, 1936 because of their Union membership and the activity of the Union. Their discharges, and those discussed previously, constitute interference with, restraint and coercion of the respondents' employees in the exercise of the rights guaranteed in Section 7 of the

Act and discrimination in regard to hire and tenure of employment to discourage membership in the Union. The appropriate remedy is plainly reinstatement of all with back pay from August 5, 1936.

We find that the aforesaid acts of the respondents tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce. After the closing of the plant on August 5, shipments of cabinets ceased as soon as the supply of finished cabinets on hand that day was exhausted.

The other employees named in the complaint did not testify, so that under all the circumstances the complaint will be dismissed as to them.¹²

CONCLUSIONS OF LAW

Upon the basis of the foregoing findings of fact and upon the entire record in the proceeding the Board finds and concludes as a matter of law:

1. National Furniture Workers of America, Salem Local No. 3, is a labor organization, within the meaning of Section 2, subdivision (5) of the Act.

2. Respondents, by discriminating in regard to the hire and tenure of employment of Olan Collier, Ralph Walters, Ralph Dalton, Alva Overton, Ottis Devin, James Ezra Lloyd, Talmadge Hattabaugh, Lester Hinds, Bert Stewart, Ernest Peace and Roger Martin have engaged in and are engaging in unfair labor practices, within the meaning of Section 8, subdivision (3) of the Act.

3. Respondents, by interfering with, restraining and coercing their employees in the exercise of the rights guaranteed in Section 7 of the Act have engaged in and are engaging in unfair labor practices, within the meaning of Section 8, subdivision (1) of the Act.

4. Such unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2, subdivisions (6) and (7) of the Act.

ORDER

On the basis of the findings of fact and conclusions of law and pursuant to Section 10, subdivision (c) of the Act, the Board hereby orders that respondents Ford A. Smith, Blanche F. Smith and

¹² They are: Eugene Fleenor, Glatens Barrett, Joe Carter, Charles W. Fears, Glabe Graves, Earl Hattabaugh, Lester Lukenbill and Bull Marcum.

Two employees, Howard Miller and Otis Stewart, not named in the complaint, testified that they had applied for employment several days after the plant reopened but were refused positions by Newlon, the latter stating to them that his refusal was based upon their membership in the Union. Lovell Brewer, also not named in the complaint, testified that on August 14 he asked Newlon whether he would be employed when the plant opened. Newlon said that he would ask his foreman whether he was a "union organizer." He returned later and informed Brewer that "I guess we will let you go." Since these employees were not named in the complaint, we cannot enter any order affecting their status.

William C. Shanks, engaged in business as partners under the name Smith Cabinet Manufacturing Company, and their agents, shall:

1. Cease and desist:

(a) From discouraging membership in the National Furniture Workers of America, Salem Local No. 3 (the Union), or in any other labor organization of their employees, by discharging, threatening to discharge or refusing to reinstate any of its employees, or refusing to hire applicants, because of membership in the Union or any other labor organization of their employees; and

(b) From in any other manner discriminating against any of their employees in regard to hire or tenure of employment or any term or condition of employment for joining the Union or any other labor organization of their employees; and

(c) From in any other manner interfering with, restraining or coercing their 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 or other mutual aid or protection, as guaranteed in Section 7 of the National Labor Relations Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Offer to Olan Collier, Ralph Walters, Ralph Dalton, Alva Overton, Ottis Devin, James Ezra Lloyd, Talmadge Hattabaugh, Lester Hinds, Bert Stewart, Ernest Peace and Roger Martin immediate and full reinstatement, respectively, to their former positions, without prejudice to any rights and privileges previously enjoyed, and make whole said Olan Collier, Ralph Walters, Ralph Dalton, Alva Overton, Ottis Devin, James Ezra Lloyd, Talmadge Hattabaugh, Lester Hinds, Bert Stewart, Ernest Peace and Roger Martin for any loss of pay they have suffered by reason of their discharge by payment, respectively, of a sum of money equal to that which each would normally have earned as wages during the period from the date of his discharge to the date of such offer of reinstatement, computed at the wage rate stated in the findings of fact as the rate each was paid prior to his discharge, less any amounts earned subsequent to the date of discharge;

(b) Post immediately notices in their plant stating (1) that respondents will cease and desist in the manner aforesaid, and (2) that such notices will remain posted for a period of at least thirty (30) consecutive days from the date of posting.