

In the Matter of AMERICAN FURNITURE COMPANY and TEXTILE
WORKERS ORGANIZING COMMITTEE

Case No. R-310.—Decided December 23, 1937

Furniture Manufacturing Industry—Investigation of Representatives: controversy concerning representation of employees; agreement for election—*Unit Appropriate for Collective Bargaining:* production employees; no controversy as to—*Representatives:* proof of choice: consent election; definition of—*Certification of Representatives:* upon proof of majority representation as determined by results of election.

Mr. Jacob Blum and Mr. Charles Y. Latimer, for the Board.

Weinberg, Sweeten & Green, by Mr. Leonard Weinberg, of Baltimore, Md., and Whittle & Whittle, by Mr. K. C. Whittle, of Martinsville, Va., for the Company.

Mr. Eugene R. Thorrens, of counsel to the Board.

DECISION

AND

CERTIFICATION OF REPRESENTATIVES

STATEMENT OF THE CASE

On August 10, 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 American Furniture Company, Martinsville, Virginia, 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 September 2, 1937, 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 September 23, 1937, the Regional Director issued a notice of hearing, copies of which were duly served upon the Company and T. W. O. C. Pursuant to the notice, a hearing was held on October 4,

1937, at Martinsville, Virginia, before James G. Ewell, the Trial Examiner duly designated by the Board. The Board and the Company were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and to 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 motions and 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.

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

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

The Company is a Virginia corporation engaged in the making of household furniture, employing 920 hourly rate production workers in its plant, consisting of four manufacturing units located in Martinsville, Virginia. Net sales for 1936 amounted to \$2,209,640.62.

The Company secures a substantial portion of its raw materials, including lumber, veneers, glass, hardware, varnishes and other finishing materials from outside of Virginia. The lumber is kiln-dried, cut to dimensions, machined, veneer applied wherever used, chairs upholstered with textile materials, finished, and the manufactured product packed for shipment in the Company's plants. The Company sells its products through its sales organization directly to department stores, retail stores, jobbers and mail order houses. A substantial portion of its products is sold in every state of the Union and in parts of Canada. Spur tracks from a division of the Norfolk & Western Railway service the Company's manufacturing units.

II. THE UNION INVOLVED

Textile Workers Organizing Committee is a labor organization affiliated with the Committee for Industrial Organization. It admits to membership all textile workers, excluding supervisory and clerical employees.

III. THE QUESTION CONCERNING REPRESENTATION

At the hearing counsel for the Board and the Company stipulated that an election should be held, without an order of the Board, among the hourly rate employees, except supervisory and clerical employees, of the Company to determine whether or not they desired T. W. O. C. to be their exclusive representative for the purposes

of collective bargaining, and, that in the event the majority of the employees in such unit designate T. W. O. C. as such representative, the Company would bargain collectively with T. W. O. C. as the exclusive representative of all such employees.

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 T. W. O. C. in their petition and the Company by its stipulation have indicated their agreement as to the proper constitution of the appropriate unit. Accordingly, we find that the production employees of the Company, excluding clerical and supervisory employees, 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

In the stipulation relating to the election, the Company reserved the right to raise before us the question as to the legal status of T. W. O. C. to act as a collective bargaining agent. As we understand it, the position of the Company is that inasmuch as at the date of the hearing no local union of the employees of the Company had been chartered, there was no organization then in existence which could be designated as a collective bargaining agent. The argument involves a fundamental misconception of the Act. The Act does not limit the employees' choice of representatives to labor organizations in which they participate as members or otherwise. Section 2 (4) of the Act defines "representatives" to include *any* individual or labor organization. T. W. O. C. is an aggregate of individuals with the rights and powers normally incident thereto. We have certified that committee as a collective bargaining agency on numerous occasions. We will do so now on the basis of the following results

of the election, conducted by the Regional Director on October 6, 1937, which have been incorporated into the record by stipulation of the parties:

For Textile Workers Organizing Committee.....	576
Against Textile Workers Organizing Committee.....	282

We find that T. W. O. C. 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.

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 American Furniture Company, Martinsville, Virginia, within the meaning of Section 9 (c) and Section 2 (6) and (7) of the National Labor Relations Act.

2. The production employees of the Company, excluding clerical and 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. Textile Workers Organizing Committee 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 Textile Workers Organizing Committee has been designated and selected by a majority of all hourly rate employees of American Furniture Company, Martinsville, Virginia, excluding clerical and supervisory employees, as their representative for the purposes of collective bargaining and that, pursuant to the provisions of Section 9 (a) of the Act, Textile Workers Organizing Committee 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.