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T & C, LLC d/b/a Hot Sam's Quality Clothes and Chicago and Central States Joint Board, Union of Needletrades Industrial Textile Employees, AFL-CIO. Case 7-CA-42366

September 29, 2000

DECISION AND ORDER

BY CHAIRMAN TRUESDALE AND MEMBERS LIEBMAN
AND HURTGEN

Upon a charge filed by the Union on September 8, 1999, the General Counsel of the National Labor Relations Board issued a complaint on December 17, 1999, against T & C, LLC d/b/a Hot Sam's Quality Clothes, the Respondent, alleging that it has violated Section 8(a)(1) and (5) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent failed to file an answer.¹

On August 29, 2000, the General Counsel filed a Motion for Summary Judgment with the Board. On September 1, 2000, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the reissued complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated August 4, 2000, notified the Respondent that unless an answer were received by August 16, 2000, a Motion for Default Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

¹ This case was the subject of an informal settlement agreement on February 3, 2000. Thereafter, the Regional Director determined that the Respondent failed to comply with the terms of the settlement agreement, and on July 18, 2000, the Regional Director issued an order setting aside settlement agreement and reissuing complaint and notice of hearing. The Respondent failed to file an answer to the reissued complaint.

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a Michigan limited liability company, with an office and place of business at 1315 Brush Street, Detroit, Michigan, has been engaged in the retail sale of clothing and accessories. During the 12 months preceding issuance of the complaint, the Respondent, in conducting its business operations, derived gross revenues in excess of \$500,000, and purchased and received at its Detroit, Michigan facility goods valued in excess of \$50,000 which were shipped directly from points outside the State of Michigan. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and agents of Respondent within the meaning of Section 2(13) of the Act:

Tony Stovall	President
Clifford Green	Vice President

The following employees constitute a unit, the salesmen unit, appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees of Respondent's present and future stores in the greater metropolitan Detroit, Michigan trading area, excluding office clerical employees, store manager, executives, guards and supervisors as defined in the National Labor Relations Act, as amended, and tailor shop employees who are under separate contract with UNITE.

The following employees constitute a unit, the tailors' unit, appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All present and future fitters, journeymen tailors, pressers, helpers, machine operators, finishers, markers, rippers, Ladies Alteration Department employees, Monogram Shop employees and floor personnel employed by Respondent in the following counties in the State of Michigan, to wit: Wayne, Oakland, Macomb, Washtenaw, Jackson, St. Clair, Lapeer, Genesee and Monroe, but excluding supervisors and other management personnel.

Since about 1969, and at all material times, the Chicago and Central States Joint Board, Union of Needletrades Industrial Textile Employees, AFL-CIO, the Union, has been the designated exclusive collective-bargaining representative of both the salesmen unit and

tailors' unit and since then has been recognized as such representative by the Respondent. These recognitions have been embodied in successive respective collective-bargaining agreements, the most recent of which were in effect from March 15, 1995, to March 15, 1998.

On about March 15, 1998, the Respondent and the Union agreed to extend the collective-bargaining agreements referred to above in their entirety "from day to day until an agreement is reached or until either party notifies the other at least forty-eight hours in advance of their intent to terminate the agreement." On about February 24, 1999, the Respondent and the Union began negotiations for successor collective-bargaining agreements for the salesmen and tailors' units.

Since about March 10, 1999, the Respondent repeatedly canceled scheduled negotiation sessions with the Union, including sessions scheduled for April 21, May 4 and 12, June 15, and July 13, 1999.

Since about April 29, 1999, and continuing to date, the Respondent has failed and refused to meet at reasonable times with the Union and has failed and refused to bargain in good faith regarding successor collective-bargaining agreements for the salesmen and tailors' units.

CONCLUSION OF LAW

By the acts and conduct described above, the Respondent has been failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees, and has thereby engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(1) and (5) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has violated Section 8(a)(1) and (5) by failing and refusing to bargain collectively and in good faith with the exclusive collective-bargaining representative of its employees, since April 29, 1999, we shall order it to bargain with the Union with respect to wages, hours, and other terms and conditions of employment of the units' employees, and, if an understanding is reached, embody the understanding in a signed agreement.

ORDER

The National Labor Relations Board orders that the Respondent, T & C, LLC d/b/a Hot Sam's Quality Clothes, Detroit, Michigan, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to bargain with the Chicago and Central States Joint Board, Union of Needletrades

Industrial Textile Employees, AFL-CIO, the exclusive collective-bargaining representative of its employees in the following appropriate units:

All employees of Respondent's present and future stores in the greater metropolitan Detroit, Michigan trading area, excluding office clerical employees, store manager, executives, guards and supervisors as defined in the National Labor Relations Act, as amended, and tailor shop employees who are under separate contract with UNITE.

and

All present and future fitters, journeymen tailors, pressers, helpers, machine operators, finishers, markers, rippers, Ladies Alteration Department employees, Monogram Shop employees and floor personnel employed by Respondent in the following counties in the State of Michigan, to-wit: Wayne, Oakland, Macomb, Washtenaw, Jackson, St. Clair, Lapeer, Genesee and Monroe, but excluding supervisors and other management personnel.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the appropriate units set forth above concerning terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement.

(b) Within 14 days after service by the Region, post at its facility in Detroit, Michigan, copies of the attached notice marked "Appendix."² Copies of the notice, on forms provided by the Regional Director for Region 7, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since April 29, 1999.

² If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. September 29, 2000

John C. Truesdale, Chairman

Wilma B. Liebman, Member

Peter J. Hurtgen, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD
APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail and refuse to bargain with the Chicago and Central States Joint Board, Union of Needletrades Industrial Textile Employees, AFL-CIO, as the

exclusive representative of our employees in the following appropriate units:

All employees of our present and future stores in the greater metropolitan Detroit, Michigan trading area, excluding office clerical employees, store manager, executives, guards and supervisors as defined in the National Labor Relations Act, as amended, and tailor shop employees who are under separate contract with UNITE.

and

All present and future fitters, journeymen tailors, pressers, helpers, machine operators, finishers, markers, rippers, Ladies Alteration Department employees, Monogram Shop employees and floor personnel employed by us in the following counties in the State of Michigan, to-wit: Wayne, Oakland, Macomb, Washtenaw, Jackson, St. Clair, Lapeer, Genesee and Monroe, but excluding supervisors and other management personnel.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union, and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining units set forth above.

T & C, LLC D/B/A HOT SAM'S QUALITY CLOTHES