

Marukyo U.S.A., Inc. and General Warehousemen, Local 589, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Case 21-RC-17108

24 February 1984

DECISION AND DIRECTION

BY MEMBERS ZIMMERMAN, HUNTER, AND DENNIS

The National Labor Relations Board, by a three-member panel, has considered a determinative challenge in an election held 28 December 1982, and Hearing Officer Jack A. Schlumberger's report recommending disposition of it. The election was conducted pursuant to a Stipulated Election Agreement. The tally of ballots showed two votes for and one against Petitioner, with four challenged ballots. The Regional Director sustained three challenges and sent the remaining challenge to hearing.

The Board has reviewed the record in light of the Employer's exceptions and brief and Petitioner's brief in opposition and has adopted the hearing officer's findings only to the extent consistent with this Decision and Direction.

The hearing officer found that employee Steve Inouye was a supervisor within the meaning of Section 2(11) of the Act. In so finding, he relied on Inouye's title of shipping department manager and on findings that Inouye directs the work of part-time employees in his department, grants time off, occasionally disciplines employees, and contributes to the hiring process. Accordingly, the hearing officer recommended that the challenge to Inouye's ballot be sustained and that a Certification of Representative be issued to the Petitioner.

The Employer excepts to the hearing officer's report and contends that Inouye is not a statutory supervisor but rather a leadman performing only routine or clerical tasks in relation to other employees. We find merit in the Employer's exceptions.

The Employer has approximately 20 employees in its facility. Its president, Koshiro Torii, oversees the entire operation. Its vice president, Katsuyuhi Yamano, supervises sales department employees.

At the time of the election, Inouye was the most senior employee in the Employer's shipping and receiving department. He held the title of shipping department manager and was the only full-time employee. His duties were identical to those of two part-time clerks working with him. He unloaded trucks, filled orders, arranged shelves, and organized materials in the warehouse. At times, Inouye would tell the less-experienced part-time employees

where to place materials and would check to insure that orders were properly filled.

Inouye often relayed information between warehouse employees and management. He assumed this role in part because he spoke both English and Japanese while Torii spoke fluently only in Japanese. The English-speaking part-time employees were often students who adjusted their work schedules around variable school hours. When they intended to change their working hours, they informed Inouye, who informed management. Inouye had no authority to excuse their absences, and the employees could be disciplined for excessive absences, even those anticipated and reported to Inouye. On occasion, Torii has told Inouye to warn employees about poor work performances. There is no indication that Inouye has imposed or even recommended discipline on his own initiative.

Inouye also participated in hiring interviews with most job applicants by informing them about the Company's policies and basic operation, giving them a company-prepared application, and administering and grading an arithmetic test. Test results and applications were subsequently conveyed to Torii, who made the decision whether to hire a particular applicant. Torii did not consult with Inouye about hiring decisions.

In analyzing whether the foregoing evidence proves the Petitioner's claim that Inouye is a statutory supervisor ineligible to vote in the election, we must first disavow the hearing officer's reliance on Inouye's title of shipping department manager. The Board has never considered titles determinative of supervisory status.¹ The proper consideration is whether the functions, duties, and authority of an individual, regardless of title, meet any of the criteria for supervisory status defined in Section 2(11) of the Act. Because it is undisputed here that Inouye's job does not meet several of those criteria, we limit our inquiry to whether he directs the work of, disciplines, or hires employees, or effectively recommends such action, and uses independent judgment when doing so.

The nature of Inouye's work and the responsibilities he assumed do not suggest that he exercised the independent judgment which is a requisite of supervisory status under the Act. His relationship with the less experienced part-time employees was closer to that of a leadman than supervisor. They performed extremely routine work, and the minimal direction Inouye provided was equally routine. He also had no independent authority to discipline employees, to grant time off, or to recommend such action. Contrary to the findings of the hearing

¹ *Golden West Broadcasters*, 215 NLRB 760, 761 (1974).

officer, Inouye served only as a conduit for the nondiscretionary delivery of disciplinary warnings from Torii to employees. Any grants of time off were likewise nondiscretionary actions dictated by the exigencies of student schedules and not binding on Torii. Finally, Inouye's role in the hiring process was merely perfunctory. He gathered information and referred it without recommendation to Torii for the president's independent evaluation. The absence of supervisory authority convinces us that Inouye, an experienced long-term employee, acted as a leadman in the Employer's warehouse operation, nothing more. Accordingly, we shall

direct the Regional Director to count the challenged ballot of Steve Inouye.

DIRECTION

IT IS DIRECTED that the Regional Director shall open and count the ballot of Steve Inouye, prepare a revised tally of ballots, have it served on the parties, and issue the appropriate certification subject to the Board's Rules and Regulations.

IT IS FURTHER DIRECTED that the above-entitled matter is remanded to the Regional Director for Region 21 for further processing consistent with this decision.