

Dayton Transport Corporation and Teamsters Local No. 171, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Case 5-RC-12050

8 June 1984

**DECISION ON REVIEW AND
DIRECTION OF ELECTION**

**BY CHAIRMAN DOTSON AND MEMBERS
ZIMMERMAN AND HUNTER**

On 29 September 1983 the Regional Director for Region 5 issued a Decision and Direction of Election in the above-entitled proceeding, in which he found appropriate for collective-bargaining the Petitioner's requested unit of all drivers, mechanics, mechanic helpers, and shop employees employed by the Employer at its Montvale, Virginia terminal. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, the Employer filed a timely request for review of the Regional Director's decision. The Employer contended that the Regional Director made erroneous factual findings and departed from officially reported precedent, and that the only appropriate unit was a "system-wide" unit including all three of its terminals.

The Board, by telegraphic order dated 3 November 1983, granted the request for review and stayed the scheduled election.

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

The Board has considered the entire record in this case with respect to the issues under review, and makes the following findings.

The Employer is engaged in interstate and intrastate transportation of bulk commodities including chemicals and dairy and petroleum products from its three terminals—Montvale, Dayton-Harrisonburg, and Front Royal—all located in Virginia. Corporate headquarters are located in the Dayton-Harrisonburg terminal, which is approximately 110 miles north of Montvale and approximately 65 miles south of Front Royal along an axis connected by Interstate Route 81. Approximately 23 employees work at Dayton-Harrisonburg, 27-29 at Montvale, and 35 at Front Royal. There has been no bargaining history for any of these employees since the Employer began its operations in 1973.

The Petitioner is seeking to represent a unit of employees at the Montvale terminal. The Regional Director found the evidence insufficient to overcome the presumption favoring the single-location

unit, and directed an election in the petitioned-for unit. We find, contrary to the Regional Director, that the single-location unit presumption has been rebutted and that only a systemwide unit comprised of employees at all three terminals is appropriate.

The Employer's president (Robert Windsor), vice president (Glenn Rippeon), and safety director (W. H. Wahl) all hold these same positions in the Employer's parent corporation, Hahn Transportation. While these officers have an office at Dayton-Harrisonburg, it appears they operate mainly from Hahn's offices in New Market, Maryland, where centralized records are kept. Rippeon testified that he is in charge of general overall operations including personnel and administrative responsibilities, while Windsor oversees all equipment and maintenance aspects of the operations. The Dayton-Harrisonburg and Montvale terminals each have a resident terminal manager plus a dispatcher, while the terminal manager at Front Royal also acts as the dispatcher.

The operations of the three terminals are highly integrated and administratively centralized. Personnel files for all employees are kept at Dayton-Harrisonburg, with duplicate files at individual terminals. Timecards and driver logs are maintained at the separate terminals for 30 days then sent to Dayton-Harrisonburg to be audited. This information is sent to New Market where the centralized payroll is prepared and issued biweekly on the same day to all terminals. Rippeon sets uniform wages for the terminal employees throughout the system, although the individual terminal managers may have some input in upgrading an employee's work rate, and all merit increases are determined by the Employer's board of directors (Windsor, Rippeon, and Windsor's wife, who is the Employer's treasurer). All employees share uniform fringe benefits including life insurance, medical coverage, sick leave, profit sharing, vacation-holiday leaves, Christmas bonus, expense allowance, moving allowance, and uniforms.

Work and disciplinary rules are set by the board of directors and are uniformly applied to all employees. The board of directors establishes uniform safety rules, and a review board, consisting of Windsor, Wahl, and a state policeman, reviews and investigates all accidents and incidents involving safety, abuse of equipment, missed deliveries, spills, etc. The Employer holds an annual driving rodeo for all employees and their families, with the winner being sent to a statewide competition.

Applications for driving jobs are accepted at the individual terminals and interviews are conducted by the terminal managers who, in turn, send a

group of applications to headquarters where final hiring determinations are made.¹ All drivers must be at least 23 years of age and have had 1 year's experience. References, background, and any criminal reports are checked according to Department of Transportation requirements. Rippeon testified that, in an "emergency" (which he described as a sudden change such as resignation or retirement), a terminal manager may hire an employee for a probationary period of 90 days. An employee's date of hire is used to determine vacation time on a systemwide basis, but Rippeon testified that seniority is not considered in making daily work assignments. Further, the record shows that when layoffs or temporary transfers have occurred at the Montvale terminal (due to its clients' seasonal cement hauling business) they have not necessarily been done on a seniority basis.

Routine discipline is handled by the individual terminal managers, but any problem which may result in suspension or discharge is handled by Rippeon or Windsor. In the event neither Rippeon nor Windsor can be reached, the terminal manager may temporarily suspend the employee. Terminal managers may grant daily leave but longer periods of leave must be approved by headquarters.

All of the tractors used by the Employer are interchangeable and both drivers and equipment are switched from terminal to terminal as needed. A terminal manager "shops needs" over the Employer's telephone "hot lines," and drivers frequently are temporarily assigned to work from terminals other than those where they are permanently stationed. This often occurs where more than a 10-hour or 450-mile trip is necessary to complete the job, as the Employer's drivers, by Government regulation, cannot exceed those limits in 1 day. Thus, a driver from one terminal will drop a load at the next terminal to be picked up by a driver there, and the first driver may be dispatched, apparently after a rest, on another run from the intermediate terminal. If a driver is temporarily assigned to another terminal for a period of time, the Employer provides travel and living allowances. All drivers come under the supervision of the particular terminal manager who dispatches them, and such authority includes the power to recommend suspension or discharge. Rippeon testified that drivers were interchanged between the 3 terminals approximately 400-425 times in the past 12 months. Further, although major equipment repairs generally are done at the Dayton-Harrisonburg terminal, mechanics have been interchanged between all terminals as needed.

¹ The record is silent as to the hiring procedures for other positions included in the unit sought.

In addition to regular temporary transfers of drivers, there have been some permanent transfers between facilities. The Dayton-Harrisonburg dispatcher transferred to Front Royal to become the terminal manager, and a few mechanics have permanently transferred their home terminals. When the Front Royal terminal opened, five Dayton-Harrisonburg drivers transferred, but only two remained there as permanent employees.

In concluding that the evidence was insufficient to overcome the presumptive appropriateness of the single-location unit, the Regional Director relied on the lack of prior collective-bargaining history, the wide geographic separation of the terminals, the permanent complement of employees at each terminal, and the lack of substantial or significant permanent interchange of employees between terminals. He further found the individual terminal managers had the authority to run the terminals on a daily basis, issue disciplinary warnings, and assign runs. Lastly, the Regional Director found that the "so-called emergency situations" (in which a terminal manager was authorized to hire) covered the majority of situations.

We disagree with the Regional Director, and find that the highly integrated nature of the Employer's operation, Windsor's and Rippeon's authority with respect to personnel and labor relations matters, and the frequent temporary interchange of drivers and equipment outweigh the factors relied on by the Regional Director. Further, the interests of the employees of each terminal appear to be effectively merged into the more comprehensive systemwide unit, so that the terminals may be said to have lost a significant portion of their individual identity. Thus, the presumptive appropriateness of a single location unit is rebutted. See *White Castle System*, 264 NLRB 267 (1982); *Orkin Exterminating Co.*, 258 NLRB 773 (1981).

Windsor and Rippeon have final authority on all personnel decisions including hiring, suspensions, terminations, and promotions. All labor relations policies, work rules, and safety policies are set by them and are applied uniformly throughout the system. While it is clear from the record that the terminal managers have day-to-day authority to "shop needs" and dispatch drivers, the rest of their authority is routine and lacks substantial autonomy. Further, it is undisputed that all records are centralized and that administration of the Employer's operations is centrally controlled by its officers from the New Market location. While it is true the three terminals are not in close geographic proximity, neither are they that distant—being a total of 175 miles apart along a direct axis on Interstate Route 81. Moreover, the nature of the Employer's

operations itself renders the distance factor less critical since many hauls pass through more than one terminal in route to final destination, and often with a change of driver en route. Lastly, although there has been very little permanent interchange of employees between terminals, the similarity of skills and the high frequency of interchange of drivers on a short-term or temporary basis, with the resultant direct supervision of those employees by the terminal manager from the point of dispatch, demonstrate a shared community of interest among employees as well as an integration of operations which render the requested single-location unit inappropriate.²

² *J. Heber Lewis Oil Co.*, 123 NLRB 1115 (1959); *Southern Truck Line*, 107 NLRB 615 (1953).

As the Petitioner has indicated its desire to represent the unit we have determined to be appropriate, in accordance with our usual practice we shall provide the Petitioner a reasonable period of time, not to exceed 10 days, from the date of this Decision on Review in which to demonstrate the requisite showing of interest among the following employees, whom we find comprise a unit appropriate for the purposes of collective bargaining within the meaning of the Act.

All drivers, mechanics, mechanic helpers and shop employees employed by the Employer at its Montvale, Front Royal Dayton-Harrisonburg terminals, excluding office clerical employees, dispatchers, guards and supervisors as defined in the Act.

[Direction of Election omitted from publication.]