

Barnes Hospital and Miscellaneous Drivers, Helpers, Health Care and Public Employees, Local 610, affiliated with the International Brotherhood of Teamsters, AFL-CIO, Petitioner. Case 14-RC-11115

January 28, 1992

ORDER DENYING REVIEW

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

The Employer's request for review of the Regional Director's Decision and Direction of Election is denied as it raises no substantial issues warranting review.¹ Pertinent parts of the Regional Director's decision are attached as an appendix.

For the reasons stated by the Regional Director, we agree with his exclusion of groundskeepers from the petitioned-for skilled maintenance unit. See also *Jewish Hospital of St. Louis*, 305 NLRB 955 (1991). We also agree with the Regional Director's exclusion of the general office clerk and secretary in the engineering department and the secretary in the design and construction department as they primarily perform routine clerical functions and do not perform any skilled maintenance work. The Board finds that under its Rule establishing a skilled maintenance unit, 53 FR at 33923-33924, 284 NLRB at 1561, a skilled maintenance unit should generally include only those employees who perform skilled maintenance work, who fill the position of a trainee, or who serve as helpers or assistants to skilled maintenance employees in the performance of their work. As the clericals in dispute here fall into none of these categories, the Regional Director properly excluded them. *Jewish Hospital*. Further, in light of the Rule, the case cited by the Employer, *McLean Hospital*, 234 NLRB 424 (1978), in which typists were included on the basis that their clerical functions were closely related to the work performed by skilled maintenance employees, is no longer dispositive and is overruled to the extent that it is inconsistent with this decision. In denying review, however, we do not adopt the Regional Director's suggestion that the clericals belong in a business office clerical unit. Because these clericals do not perform any typical business office functions, such as patient billing, it may be that they are more properly placed in a service and maintenance unit. Last, the Board declines to reconsider *St. Margaret Memorial Hospital*, 303 NLRB 923 (1991).

The Employer's request for review of the Regional Director's decision to deny the parties' request to schedule an election on a date selected by the parties and its request to supplement the request for review with an affidavit of its employee relations manager are

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

denied. In view of the rescheduling of the election by the Regional Director, the issue raised therein is moot.

APPENDIX

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.²

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction here.³

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Groundskeepers

The Employer employs five groundskeepers in the housekeeping department. Contrary to the Petitioner, the Employer contends that the groundskeepers are skilled maintenance employees and should be included in the petitioned-for unit.

The record establishes that the groundskeepers are primarily responsible for maintaining the hospital grounds. The primary duties of the groundskeepers are to mow grass, trim bushes, and clear snow from the parking and walking areas, as well as maintaining the playground equipment and outside restrooms. The groundskeepers' duties also include maintaining the equipment used to perform their job tasks. The equipment for which the groundskeepers are responsible includes

² At hearing, the Employer submitted a Motion to Dismiss the petition contending that the Petitioner failed to demonstrate a 30 percent showing of interest. The hearing officer deferred ruling on the motion. The Employer's Motion is denied as it has been administratively determined that Petitioner's showing of interest is numerically adequate for the unit found appropriate here. At hearing, the Employer also attempted to introduce evidence alleging a fraudulent showing of interest. The hearing officer barred submission of such evidence advising that submission of allegations to support a fraudulent showing of interest should be made to the Regional Director within 5 working days of the hearing. As it is well-settled that showing of interest is a matter of administrative determination and not litigable by the parties, the hearing officer properly barred the Employer's evidence. *Potomac Electric Power Company*, 111 NLRB 553 (1955). The Employer has failed to either timely request an administrative investigation or to submit post-hearing evidence of fraud with respect to Petitioner's showing of interest. As such, no investigation has been conducted. At hearing, the Employer submitted both an oral and written offer of proof in support of its contention that a skilled maintenance unit is inappropriate. The hearing officer properly precluded the proffered evidence from being adduced as the Employer's contention has been specifically rejected by the Board. Final Rule on Collective-Bargaining Units in the Health Care Industry, 29 CFR Part 103, 54 Fed. Reg. 16336, 16347-16348, 284 NLRB 1579, 1596-1597 (1989); *St. Margaret Memorial Hospital*, 303 NLRB No. 146 at fn. 4 (1991). At hearing, the Employer also made an oral offer of proof concerning clerical employees based on "extraordinary circumstances." The hearing officer properly rejected the offer of proof, where the Rule delineates a separate unit of business office clericals and the Employer has offered to present no facts establishing extraordinary circumstances warranting a deviation from the units established by the Rule.

³ The Employer, Barnes Hospital, a Missouri not-for-profit corporation, with its principal hospital complex, the only facility involved here, located at One Barnes Hospital Plaza, St. Louis, Missouri, is engaged in the operation of an acute care hospital. The Employer annually derives gross revenues in excess of \$250,000, and annually purchases and receives at its St. Louis, Missouri facility products, goods, and materials valued in excess of \$50,000 directly from points located outside the State of Missouri.

diesel tractors, a tenant sweeper, lawn mowers, chainsaws, and weed eaters. Groundskeepers perform basic maintenance on this equipment such as changing oil, filters, spark plugs, mower blades, adjusting timing, and tuning up the equipment. The groundskeepers also change hydraulic hoses and power take-off units on the tractors. Although at least two of the groundskeepers have performed mechanical work on this equipment, the ability to perform such work is not a requirement of the position and is not included as a requirement in the hospital's job description. The record also establishes that at least two of the groundskeepers perform some welding on the equipment, however, the ability to weld is not a requirement of the job and is not included as a requirement in the hospital's job description. The groundskeepers also repair playground equipment such as swings and monkey bars. Repair of playground equipment involves the use of basic hand tools such as hexagon-shaped and allen-type wrenches.

The record establishes that during the winter months the groundskeepers are responsible for snow removal, which involves removing the mower decks and replacing them with snow plows. The groundskeepers set the timing and zones in the automatic sprinkler system for watering the hospital grounds. When the sprinkler system malfunctions, the groundskeepers remove bushes, shrubs, and dirt from the sprinkler system in order to allow the plant engineering personnel to perform repairs. Similarly, the groundskeepers dig around faulty piping in order to expose the piping allowing the plumbers to repair the plumbing system.

Generally, the groundskeepers spend 30 percent of their time maintaining the equipment they use during the summer and approximately 50 percent of their time performing corrective and preventive maintenance during the winter. The groundskeepers are directed by a head groundskeeper who reports directly to the director of housekeeping. In order to become a groundskeeper, an individual must have a high school education, 2 to 3 years experience, and possess the ability to perform basic maintenance of the groundskeeping equipment. The record also establishes that there is a training position for groundskeepers at the custodial level which is a pay grade level 23. The training requires a lengthy regimen in order to learn to operate the equipment. The position does not require trade or vocational school and does not require extensive mechanical skills. The groundskeeper is classified as a pay grade level 33.

In view of the above evidence and the record as a whole, including the fact that the groundskeeper is not required to have formal training in a vocational or trade school, and that

the primary functions of the groundskeeper are to maintain the outside grounds of the hospital, including mowing grass and plowing snow, and that the functions of the groundskeepers are of a routine nature, and despite the fact that the groundskeepers perform light maintenance on the groundskeeping equipment, that two groundskeepers have welding ability, that two groundskeepers have replaced hydraulic parts and power take-off on equipment, I find the groundskeepers are not skilled maintenance employees or the trainee, helper, or assistant of skilled maintenance employees, and I shall, therefore, exclude the position of the groundskeeper from the skilled maintenance unit here.

Accordingly, pursuant to the Board's Final Rule on Collective-Bargaining Units in the Health Care Industry, the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All skilled maintenance employees, including auto/control technician, lead maintenance worker, maintenance worker, maintenance worker--A, maintenance worker--B, mechanic--C, master mechanic, storekeeper, bio-medical electronic technician I, bio medical electronic technician II, bio-medical electronic technician III, bio-medical equipment specialist IV, bio-medical equipment specialist, electronic technician I, electronic technician II, electronic technician IV, lab equipment specialist, laser elect-optics equipment technician, support services electronic technician, technical development coordinator, carpet installer, construction apprentice, construction journeyman, upholsterer I, and upholsterer II, employed by the Employer at its St. Louis, Missouri facility, EXCLUDING BAS operator, systems analyst, office clerical¹⁰ and professional employees, guards, and supervisors¹¹ as defined in the Act, and all other employees.

¹⁰The record establishes that the general office clerk and secretary in the engineering department and the secretary in the design and construction department primarily and routinely perform clerical functions such as typing, filing and transcribing and perform no skilled maintenance work. I shall, therefore, exclude those positions from the unit found appropriate here.

¹¹The record is devoid of any evidence regarding the specific job titles or duties of supervisory personnel in the engineering and design and construction departments. Accordingly, the unit placement of such individuals cannot be determined.