

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 32**

(Ceres, California)

COUNTRY FORD TRUCKS, INC.

Employer ¹

and

Case 32-RC-4617

**MACHINISTS AUTOMOTIVE TRADES
DISTRICT 190, LOCAL 1528, AFL-CIO**

Petitioner²

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein called the Act, a hearing was held before a hearing officer of the National Labor Relations Board, herein called the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,³ the undersigned finds:

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

2. The parties stipulated, and I find, that the Employer, a California corporation, is engaged in the sales and service of new and used trucks in Ceres, California, its only facility involved herein. During the past fiscal year, the Employer received gross revenue in excess of \$500,000 and during that same period of time, purchased and received goods worth in excess of \$5,000, which originated outside the State of California. Based on the foregoing, I find that the

¹ The name of the Employer appears as amended at the hearing

² The name of the Petitioner was changed to reflect its affiliation with the AFL-CIO.

³ Briefs filed by the parties have been duly considered.

Employer is engaged in commerce within the meaning of the Act. Accordingly, the assertion of jurisdiction is appropriate herein.

3. The parties stipulated and I find that Machinists Automotive Trades District 190, AFL-CIO, herein the Petitioner, is a labor organization within the meaning of Section 2(5) of the Act.

4. The Petitioner claims to represent certain employees of the Employer, and a question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

5. The Petitioner seeks to represent a unit consisting of all journeymen and apprentice technicians and lubricators. The Employer, however, contends that the only appropriate unit would include all the employees in the parts and service departments including the petitioned-for employees.

As noted, the Employer is a light and heavy truck dealer. It sells, rents out and services all forms of new and used trucks. In addition to dealing in Ford trucks, and servicing various other brands of trucks, the Employer is also a franchise for Sterling Trucks. Besides repair work the Employer also performs fabrication work and modification of trucks. This work is mainly performed across the street from the main facility at a location that does business under the name of Ceres Truck Equipment, hereinafter referred to as CTE or the annex⁴.

There are two work shifts at the main facility, 7 a.m. to 4 p.m. and 3:30 to midnight. CTE has only one shift, 7 a.m. to 4 p.m.

John Shipman is the Director of the parts and service department. In addition there are 3 managers who directly supervise the employees in these departments. Lloyd Wagner, Jerry Johnson, and Tommy Jones are managers of the parts, service and CTE departments, respectively⁵.

The parts department is located in the main facility. There is a front counter which services retail customers while a back counter is where the service technicians consult with the parts salesperson and retrieves parts for the trucks being repaired. Service technicians are not permitted to retrieve the parts themselves and must instead go through the parts employees to get information

⁴ The record showed that the name "Ceres Truck Equipment" is used for that location in order to attract fabrication business from dealers of other brand of trucks who would otherwise be reluctant to send its trucks to a business that included "Ford" in its name. In fact, the Employer does metal fabrication work for Chevrolet, Dodge and other brands of trucks.

⁵ The parties stipulated that Shipman, Wagner, Johnson, and Jones are supervisors within the meaning of the Act and therefore should be excluded from the appropriate bargaining unit.

on parts and prices. There is also a parts employee who works at CTE from whom the CTE employees, i.e., the installers, request parts. The CTE parts employee will get the parts from the main facility or have the parts delivered by a parts delivery person who also delivers parts to retail customers. A parts department employee works in the warehouse where the heavy, bulky truck parts are kept. This employee does shipping and receiving and stores and organizes the parts. Parts employees do not work on trucks although on occasion they have done simple jobs like a windshield wiper installation as a courtesy to a customer.

The service department consists of service advisors, service technicians, installers, lubricators, detailers, janitor, shuttle driver, booker, and cashier. The service advisors work at a counter next to the open shop area where the service technicians work. There the service advisors greet the customers and get a description of the repair problem which they will write on the repair order. A computer repair order is generated and dispatched to the service technician who does the work required on the truck. Subsequently after the service technician has information regarding the final cost and the availability of the truck, the service advisor calls the customer. At that time the service advisor will also inform the customer of any changes regarding the estimate. Finally the service advisor calls the customer when the work is done. Although the service advisors do not do any mechanical work on the trucks, they sometimes accompany the service technicians on road tests.

The service advisors and the parts employees receive training in order to be certified by Ford. Some of this training is technical and some is just "people skills" inasmuch as of all the employees they deal most extensively with the public. Both the service advisors and the parts employees wear very similar multi-colored striped shirts.

The booker is in charge of closing the repair order. This involves taking the information added by the service technician to the back of the order regarding the work performed and a description of the parts and putting it on the front of the repair order. The booker then totals the cost and passes it on to the cashier for collection.

The cashier accepts cash for final payment unless it is a charge which she will process and send to accounting. This includes payment for repairs as well as for parts if bought separately. The cashier also processes warranties which are sent to Ford for reimbursement.

As previously mentioned the service department also includes detailers and shuttle drivers. Detailers clean up the trucks before they are given to the customer; there is no record evidence regarding the duties of the shuttle drivers.

The Employer has two types of technicians working on trucks, service technicians who mainly do engine repairs and related work and installer/fabricator technicians, referred to herein as installers, who mainly do fabrication and installation of custom beds and other custom features on trucks. As between these two classifications the Petitioner is seeking to represent only the service technicians.

There are 14 service technicians. They work in the shop area of the main facility only. They do diagnostic work using computers and repair and service trucks. They are required to provide their own tools. The record disclosed that the cost of the tools owned by the service technicians range from \$750 to over \$30,000. Although the exact number is unknown, at least 4 of the service technicians are certified through Automotive Service Excellence (ASE) and at least 2 are master mechanics. Additionally approximately 5 of them have Ford certifications. It was also disclosed that the Employer offers classes for service technicians to maintain and upgrade their skills. In this regard the record showed that in order for the Employer to do warranty work and be reimbursed by Ford a certain undisclosed number of its service technicians must be certified by Ford.

The Employer regularly holds meetings at 3:30 p.m. of the service technicians. The record was silent as to the purpose of these meetings; it was clear however that the installers do not attend these meetings although it is not known from the record whether other classifications of employees attend. Regarding uniforms, the record shows that at least the service technicians and probably the lubrication employees discussed below wear shirts of a different shade of blue than that worn by the installers. Their shirts also have a red stripe and a Ford logo. It was disclosed that the purpose of the red stripe was to quickly differentiate a worker from the main facility from a CTE worker. An applicant for a service technician position will be interviewed by Shipman and Johnson.

There are two lubrication (lube) employees. They work in the main facility and are responsible for all truck lubrication and oil and filter changes. They are not certified. Although they are not required to provide their own tools one lube employee has his own set while the Employer provides a set for the other lube employee to use. Compared to the tool sets of the service technicians, those of the lube employees are small and relatively inexpensive. It was estimated that the cost of the set owned by the one lube employee is \$300. The Employer has no formal apprenticeship program. Thus, the lube employees are not apprentices or technicians' helpers in the strict sense of the word. However, they do provide assistance to the service technicians to the extent that on occasion they punch in on the repair order along with the service technician. When assisting they do such things as helping to line up a transmission or replace a clutch.

CTE was opened in 1997 to create and install custom fabricated equipment for trucks; prior to that time this work was done at the main facility. The installers are also required to provide their own tools. However, they do not need Ford certification to fabricate truck bodies; thus, only one of the installers has Ford certification although the record did not reveal the area of certification. Some service work is performed at CTE; thus, one employee assigned to that location is a service technician and two others can also do this type of work, the rest of the employees there are installers and welders. The uniform for the CTE employees consists of light blue shirts that say "CTE" and dark blue pants⁶. The CTE employees punch a time clock at their work location not in the main facility. An applicant for an installer position will be interviewed by Shipman and Jones and, unlike the applicants to a service technician position, is required to take a welding test.

The record showed that there have been transfers between classifications. Thus, a lube employee transferred over to CTE as a janitor; an employee employed as a service advisor for the past two years previously worked as a service technician for approximately the same period of time; another employee started as a lot worker, progressed to janitor and gardener, lube employee, service advisor and is presently rotating between parts salesperson and service advisor at night; another service advisor used to be a parts delivery person. Finally, Dale Kettner a service technician at the main facility prior to the opening of CTE was a diesel technician and he installed air conditioning units, PTOs (power turn-offs), and dump bodies. He transferred to CTE 6 or 7 months after it opened and spent a year there. While there he did wheel bases, installed dump trucks, air conditioning units, electronics, trailers and trailer hitches and did hydraulic work such as ABS brakes, trailer brakes, and trailer brake controls. Kettner has since transferred back to the main facility as a service technician.

The record showed a certain amount of work overlap between the installers and the service technicians. Thus, the installation of air conditioning units, fifth wheels, and add-ons such as truck beds or a horse trailer have been done at both locations as well as electrical, and transmission work. Brake work is also done at both locations since the installation at CTE of a custom bed requires that the factory brake work be modified; however regular brake work has been done at CTE although the record does not show the regularity of this occurrence. Regarding hitches, a Class A or big truck hitch, a pickup hitch, and a pinball hitch can be done at either location depending on the workload; a foldaway hitch is typically done at CTE. It was estimated that $\frac{3}{4}$ of all the hitches are installed at CTE. Also, if a truck is at the main facility for repair work and it also needs some simple fabrication such as brackets in order to install a television set or a microwave in a sleeper, that work will be done at the main facility rather than bringing it to CTE. Similarly, repair work or the recharging of

⁶ It should also be noted that at the annex the phone is answered "CTE", the phone at the main facility is answered "Country Ford".

an air conditioning unit is typically done at the main facility, however it can and apparently has been done at CTE if the truck is already there for other work. However, generally engine work is done only at the main facility. The record revealed that often a truck will come in for a repair and fabrication work and will be worked on at both locations. An example was also given of a newly purchased truck that had had work done at both locations, pre-delivery inspection work and a dump body installation. It was brought back for a transmission noise. In this circumstance a CTE employee worked on the truck at the main facility for about 2 hours while a service technician was also working on it. Another time a job involving the fuel filler was started at the main facility but had to be finished up at CTE because the service technician at the main facility could not install the filler neck as it required the installation of customized metal work. The record disclosed that there are approximately 200-300 repairs a week and of those 1 to 2 involve work at both locations.

All employees at issue herein are hourly paid; additionally some receive commissions. The service advisors and parts employees are paid an hourly wage within the range of \$6 to \$20 an hour and also a commission based on the profitability of their respective departments. The service technicians also get a commission if they “up-sell”, i.e., based on their recommendation the customer agrees to an additional repair. The service technicians are paid under a system called 100% commission. This was described at the hearing as a bonus which is triggered when a service technician does a job in less time than allotted by Ford. The installers however are paid in the range of \$7-8 to \$18 with no bonuses or commissions.

All employees are subject to the same vacation policies, holidays, insurance programs, including medical, dental, and life insurance, 401K, profit sharing program, and can use the same break/lunch room. Additionally, the installers who work at CTE have their own break room although they do not have lockers which are solely provided to employees at the main facility. Approximately every 90 days all employees including those at CTE are required to attend a safety meeting. There is also a monthly luncheon for all employees as well as an annual Christmas party and picnic; attendance is voluntary at these events.

Based on the foregoing and the record as a whole, I conclude that a unit limited to the service technicians and the lube employees is an appropriate unit as the Board has recognized that the distinctive skills of such mechanics sufficiently set them apart from other service and parts department employees such as to constitute a craft unit. The record evidence clearly revealed that the technicians herein are a “distinct and homogeneous group of highly trained” employees who are primarily engaged in the performance of tasks that are not only different from the work performed by the other service department employees, but that require the use of substantial specific mechanical skills, as

well as specialized tools and equipment.” Dodge City of Wauwatosa, 289 NLRB 459, 460 (1986).

The record shows that many of the service technicians, unlike the other parts and service department employees, are ASE and/or Ford certified and 2 of them are master technicians. They also must provide their own tools. Although all of the employees in the parts and service departments are engaged in work involved with the service and repair of trucks only the technicians perform the actual repair work. Additionally, unlike the other parts and service department employees, they perform all of their work in the repair area, have no regular contact with customers, are compensated at a rate different from the other employees, and as previously noted perform work which is distinct from that of the other employees.

The lube employees although not as skilled as the service technicians, are also engaged in mechanical work and thus are akin to helpers or trainees of the service technicians. Fletcher Jones Chevrolet, 300 NLRB 875, 876 (1990).

Although the installers at CTE also do repair work on trucks, their main function is to do fabrication work and welding and thus the repair work performed by CTE employees is by and large ancillary to their fabrication work. The fact that the work of the installers and the service technicians overlap is an insufficient basis to negate the separate community of interest of the service technicians since essentially the service technicians do repair work and the installers do fabrication work. This is shown by the fact that the applicants to CTE must pass a welding test while the service technicians do not. Also, the service technicians are generally certified in engine repair and related work whereas the installers are not. Significantly, the installers are separately supervised, work in a separate building and are not compensated on a flat rate or commission basis.

Additionally, there is no evidence that the CTE location sends repair work to the service department on a frequent rather than sporadic basis. Regarding transfers, there was a service technician who transferred to the CTE department and worked there for a period of 6 to 7 months before transferring back to the service department as a service technician; however, there is no evidence of temporary transfers between the service department and any other department including the CTE location. It is well established that permanent transfers weigh less heavily than temporary interchange in assessing the community of interest shared by employees. Ore-Ida Foods, 313 NLRB 1016, 1020, fn. 4 (1994).

As the Petitioner points out in its closing argument, the facts in this case are similar to those in Fletcher Jones Chevrolet, supra. There the Board found a unit consisting of service technicians and quick service technicians to be appropriate. The quick service technicians in Fletcher, like the lube employees herein, handled simple mechanical repair work such as lubrication and oil and

filter changes. The Board in Fletcher also excluded body shop technicians because, as in the instant matter, they were separately supervised, used different skills, worked in a separate location and performed mechanical work which was incidental to their body work.

Additionally, there is no evidence of daily work-related contact between the service technicians and the cashiers and booker. Although there is regular, work-related contact between the service technicians and the service advisors and parts employees, the service advisors and parts employees do not do any repair work on trucks and are compensated on a different basis. Also, the parts employees are separately supervised.

Despite the common direct supervision with other service department employees, the regular work-related interaction with the service advisors and the parts employees and the sporadic overlap of repair work with the installers, I find that the factors which set the service technicians apart as a specialized unit, i.e., their unique skills, training, and specialized work, results in the service technicians along with the lubrication employees sharing a community of interest apart from the other employees in the parts and service departments.

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

All full-time and regular part-time service technicians and lubricators employed by the Employer at its Ceres, California location excluding all other employees, office clerical employees, guards, and supervisors as defined in the Act.

There are approximately 16 employees in the bargaining unit.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the Notice of Election to be issued subsequently, subject to the Board's Rules and Regulations.⁷ Eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of the Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States Government

⁷ Please read the attached notice requiring that election notices be posted at least three (3) days prior to the election.

may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible to vote shall vote whether or not they desire to be represented by, **MACHINISTS AUTOMOTIVE TRADES DISTRICT 190, LOCAL 1528, AFL-CIO.**

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties in the election should have access to a list of voters and their addresses which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 394 U.S. 759 (1969); North Macon Health Care 359 Facility, 315 NLRB 359, 361 fn. 17 (1994). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision, two (2) copies of an election eligibility list containing the full names and addresses of all the eligible voters shall be filed by the Employer with the undersigned, who shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the NLRB Region 32 Regional Office, Oakland Federal Building, 1301 Clay Street, Suite 300N, Oakland, California 94612-5211, on or before, June 23, 1999. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, DC 20570. This request must be received by the Board in Washington by June 30, 1999.

Dated at Oakland, California this 16th day of June, 1999.

/s/ James S. Scott

James S. Scott,
Regional Director
National Labor Relations Board

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