

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 8**

COMMUNITY HEALTH PARTNERS OF OHIO ¹

Employer

AND

CASE NO. 8-RC-15904

**DISTRICT 1199, THE HEALTH CARE AND
SOCIAL SERVICE UNION SEIU ²**

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board; hereinafter referred to as 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, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
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 herein.
3. The labor organization involved claims to represent certain employees of the Employer.
4. 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.

¹ The Employer's name appears as amended at hearing.

² The Petitioner's name appears as amended at hearing.

5. 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 full time and regular part time skilled maintenance employees employed by the Employer including lead maintenance mechanic/carpenter, lead maintenance mechanic/electrician, lead maintenance mechanic/general, lead maintenance mechanic/plumber/pipefitter, lead maintenance mechanic/stationary engineer, maintenance mechanic, maintenance mechanic/carpenter, maintenance mechanic/electrician, maintenance mechanic/plumber, maintenance mechanic/refrigeration, skilled maintenance mechanic, skilled maintenance mechanic/carpenter, skilled maintenance mechanic/electrician, skilled maintenance mechanic/plumber/pipefitter, skilled maintenance mechanic/refrigeration, utility maintenance mechanic, utility mechanic/carpenter, utility mechanic/electrician, and utility mechanic/groundskeeper, but excluding the CAD operator, project coordinator, maintenance office assistant, maintenance secretary, professional employees, technical employees, service employees, clerical employees, confidential employees, casual employees, guards and supervisors as defined in the Act.

The Employer is an Ohio not for profit corporation which operates an acute care facility at its main location at 3700 Kolbe Road in Lorain, Ohio. That facility is also known as the West Campus. The record establishes that the Employer also operates other facilities in the area.³ There are approximately 22 employee in the unit found appropriate herein.

The Employer contends that the following employees should be included in the skilled maintenance unit sought by the Petitioner: CAD operator⁴; project coordinator; maintenance

³ The record establishes that, at the present time, all skilled maintenance employees employed by this Employer work at the West Campus.

⁴ The record establishes the CAD stands for computer assisted drafting.

assistant; and maintenance secretary. The Petitioner contends that employees in those classifications are not appropriately included in a skilled maintenance unit.⁵

Gerald Doyle is the Employer's Director of Maintenance and Plant Operations. Doyle testified that he is responsible for all buildings located on the West Campus⁶ and that he is in charge of maintenance, plant operations and housekeeping. A total of 87 employees report to him, sixty-one of which are members of the Housekeeping Department.⁷ Doyle supervises all unit classifications as well as those classifications in dispute herein. Doyle reports directly to Edwin Oley, the Employer's Administrative Operations Officer.

Doyle conducts weekly informational meetings with all employees in the "lead" classification and the maintenance secretary. The maintenance secretary takes minutes of the meetings and also gives her own report. Doyle conducts quarterly informational meetings for all department employees.

The record establishes that all employees receive the same benefits and are subject to the same rules and regulations as contained in the Employer's handbook and in its standard operating procedures.

The Plant Operations Department is responsible for the boiler and chiller operation in the power house. The power house, which houses the boilers and chiller is located on the south side of the West campus. The maintenance department is located in the basement of the West Campus.

⁵ The parties are in agreement that the remaining classifications listed in the unit description were appropriately included in the unit. I find nothing in the record evidence that would lead me to conclude to the contrary.

⁶ At the present time, maintenance and plant operations at all of the other facilities operated by the Employer are performed by subcontractors.

⁷ There is also a housekeeping supervisor, Tom Heider, who reports to Doyle.

The record establishes that the CAD operator prepares floor plans and project drawings and does field measurements to verify the accuracy of the drawings. The CAD operator also updates facility drawings. Evidence establishes that the CAD computer system is exclusive to the maintenance department. When the CAD Operator is not out taking field measurements or getting other information needed for a project, she spends all of her time in the Maintenance Department.

According to the position description for this classification, the CAD Operator must have a high school diploma, or its equivalent, with additional courses in engineering graphics or drawing. In addition, the CAD must possess a basic background in math and physics along with a basic understanding of electricity and mechanics. The CAD operator must also have a working knowledge of "AutoCad" in an architectural drawing setting and DOS file management. The CAD Operator must understand physical and technical relationships and be able to effectively interact with all levels of management. Doyle testified that the current CAD Operator has taken courses in CAD operation as a community college. He was uncertain as to whether the operator had received a certification in the area. No licensure is required for the position

Record evidence establishes that the present CAD Operator has fairly frequent interaction with mechanics who may ask her for floor plans or blue prints. In addition, the mechanics may work with the CAD Operator on field measurements and the creation of work projects.⁸ Doyle testified that the CAD Operator could not generate an accurate drawing without input from various mechanics and, conversely, the mechanics could not perform their jobs without information from the CAD Operator.

⁸ For example, if a carpenter is given a work order which includes the removal of a wall, that employee would consult the CAD Operator to determine if the wall in question is weight bearing. On the same project, plumbers or electricians may need to trace lines.

There is no evidence that the CAD Operator performs any skilled maintenance work or that she acts as a trainee, helper or assistant to skilled maintenance employees.

The project coordinator also does CAD work, preparing construction plans and doing field measurements. The project coordinator is responsible for managing the Employer's blue print library, updating facility drawings, and assisting in project cost estimating.

The record establishes that the project coordinator works with various in-house maintenance employees and outside contractors to ensure that construction projects are planned and completed in an orderly and cost effective manner. In this regard, the project coordinator gets cost estimates, shows contractors around the project site, schedules dates and times for the various work that needs to be done and updates drawings as needed for the completion of the project. He gathers input from various members of the skilled maintenance department in order to create an accurate blue print drawing of the area in question. The blue prints must, ultimately, be approved by Doyle. Thereafter, the blue print is presented to the department chairperson for approval. According to Doyle, these tasks take up approximately 70 to 80% of the project coordinator's work time.

According to the position description, a project coordinator must possess a high school diploma or its equivalent with additional courses in engineering graphics or drafting. In addition, this position requires a background in math and physics along with a basic understanding of electricity and mechanics. A project coordinator must be able to understand physical and technical relationships and has taken additional courses in computers and computer aided design and drafting. Finally, this position requires a working knowledge of AutoCad in an architectural setting and DOS file management.

Doyle testified that the current project coordinator has had some CAD training from a community college, but Doyle did not believe that he had an advanced degree.

The record established that when Doyle is not at work, the project coordinator "keeps an eye" on the department. Even in that capacity, the project coordinator does not have the authority to discipline employees. Problems of that nature are referred to Oley.

There is no evidence that the project coordinator performs any skilled maintenance work or assists maintenance employees in the performance of skilled maintenance work.

The maintenance secretary operates a computer system known as HEMS ⁹, a system which is unique to the maintenance department. The HEMS tracks and generates preventative and corrective maintenance work orders. Doyle testified that someone with a clerical background could gain a basic understanding of HEMS in four to six months. ¹⁰ Completed work orders are entered into HEMS by either the maintenance secretary or the maintenance office assistant, the only departmental employees with access to the system. If a mechanic needed information on the status of a work order, he would contact one of those two people, who could generate a print out of the desired information. Doyle testified that the maintenance department employees have frequent contact with both the maintenance secretary and the office assistant.

The maintenance secretary also answers the telephone and directs maintenance requests from other departments to the appropriate craft ¹¹. Doyle is ultimately responsible for ensuring that all work orders are carried out. The maintenance secretary also manages the maintenance

⁹ "Hospital Engineering Maintenance System."

¹⁰ Doyle testified that it was his belief that the current maintenance secretary attended a clerical school and that she previously worked for a contractor.

purchase order system ¹², provides Doyle with clerical support ¹³ and does some scheduling of contract work. She also plays a role in coordinating vacation requests or requests for leaves of absence from department personnel.

As noted, the maintenance secretary attends weekly departmental meetings where she give a report on the upgrading of the HEMS system and sets forth any problems she may be having with work orders which have not been properly filled out by department personnel. The maintenance secretary works in the general maintenance area where she spends approximately 99% of her time.

No position description was entered into the record for the maintenance secretary. There is no evidence that the maintenance secretary performs any skilled maintenance work or assists in the performance of that work.

The job duties of the maintenance office assistant are similar to those performed by the maintenance secretary. She operates HEMS, files, answers the telephone, and directs maintenance requests. The maintenance office assistant is also responsible for updating the equipment operating manual system. When a mechanic needs the specifications for a particular system or piece of equipment, they consult the maintenance office assistant. The maintenance office assistant works in the maintenance department. Doyle testified that the maintenance office assistant also provides him with some limited clerical assistance.

¹¹ According to Doyle, if the maintenance secretary receives a maintenance request, such as the need to replace a light bulb, she would direct the order to the electricians by placing the request in the appropriate mail box.

¹² This work involves a computer system separate from HEMS. If a mechanic needed to order a part he would contact the secretary who electronically contacts the purchasing department with the information needed to order the part.

¹³ The record testimony does not establish exactly what kind of clerical support she provide to Doyle.

According to the position description, the maintenance office assistant must be able to proofread business correspondence, perform non-complex arithmetic calculations, file records and documents, type forms, labels and index cards and possess basic interpersonal skills in order to answer telephones and greet visitors. Most skills required for the position are at a level normally acquired through the completion of high school.

There is no evidence that the maintenance office assistant performs any skilled maintenance work or assists in the performance of that type of work.

As noted, the Employer contends that all of the disputed classifications should be included in the skilled maintenance unit, relying primarily on the argument that their duties are significantly integrated with the duties of other unit classifications. The Petitioner would exclude those classifications. Based upon the record and relevant case law, I conclude that the positions of CAD operator, project coordinator, maintenance secretary and maintenance office assistant are not properly included in the skilled maintenance unit sought by the petitioner.

In "Collective Bargaining Units in the Health Care Industry: Second Notice of Proposed Rule Making"¹⁴ the Board noted that skilled maintenance employees are:

employees who are generally engaged in the operation, maintenance, and repair of the hospitals physical plant systems, such as heating, ventilating, air-conditioning, refrigeration, electrical, plumbing, and mechanical, as well as their trainees, helpers and assistants.¹⁵

The Board's analysis of collective bargaining in health care units was finalized with the publication of its Final rule on Collective Bargaining Units in the Health Care Industry, which took effect on April 23, 1991, upon the issuance of the Supreme Court's decision in **American Hospital Association v. NLRB**, 111 S. Ct. 1539 (1991). The Board determined that skilled

¹⁴ 53 Fed.Reg. 33900, 33920-33924, 284 NLRB 1527, 1557, 1561 (1988).

¹⁵ See: **Ingalls Memorial Hospital**, 309 NLRB 393, 394 (1992)

maintenance employees properly constituted a separate appropriate unit for the purposes of collective bargaining.¹⁶

The Board has held that under the Rule, 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. **Barnes Hospital, 306 NLRB 201 (1992)**.

In determining whether a particular classification should be included in a skilled maintenance unit, the focus of the inquiry is upon whether the employees in the disputed classification possess the types of skills, and are required to perform the kinds of job duties, common to other skilled maintenance classifications, at similar skill levels. **St. Luke's Health Care Association, Inc., supra**. The Board focuses its analysis on the nature of the work performed by the employees in question rather than upon their degree of interaction with skilled maintenance employees. **St. Luke's Health Care Association, Inc., supra**.¹⁷

The Board has excluded secretaries and clerks from a skilled maintenance unit where there is no evidence that they perform any skilled maintenance work, fill the position of a trainee, or serve as assistants or helpers to skilled maintenance employees in the performance of their work. **Barnes Hospital, supra**, **Ingalls Memorial Hospital, supra**. In **Ingalls**, the Board excluded from a skilled maintenance unit secretaries and clerks who routed service requests, dispatched maintenance personnel, processed purchasing paperwork, filed and updated preventative maintenance procedures, and prepared maintenance reports.

¹⁶ See: **St. Luke's Health Care Association, Inc., 312 NLRB 139, 141 (1993)**; Section 103.30 of the Board's Rules and Regulations.

¹⁷ See also: **Barnes Hospital, supra**, **Jewish Hospital of St. Louis, 305 NLRB 955 (1991)**.

In **Ingalls**, the Board also excluded a project support coordinator whose job duties included facilitating construction projects, and a draftsman who was responsible for maintaining and updating a library of hospital blueprints and generating CAD drawings. These categories were excluded as there was no evidence to show that employees at issue performed any skilled maintenance work or served as a helper or assistant to skilled maintenance employees in the performance of their work.

In the instant matter the record does demonstrate that the work of the employees in the disputed classifications is to some degree integrated with the work performed by skilled maintenance employees. Likewise, the record demonstrates they share common terms and conditions of employment. However, those factors are not the proper focus for the inquiry regarding their inclusion in a skilled maintenance unit. There is no evidence that employees in any of the disputed classification perform skilled maintenance work or fill the position of a trainee, or serve as helpers or assistants to skilled maintenance employees in the performance of their work. They must, therefore, be excluded from the unit found appropriate herein.

Based on the foregoing and the record as a whole, I find that the CAD operator, project coordinator, maintenance secretary and maintenance office assistant are not skilled maintenance employees and they are, therefore, excluded from the unit found appropriate herein.

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. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this 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 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 shall vote whether or not they desire to be represented for collective bargaining purposes by **District 1199, The Health Care and Social Service Union SEIU**.

LIST OF VOTERS

In order to ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. **Excelsior Underwear Inc., 156 NLRB 1236 (1966); N.L.R.B. v. Wyman-Gordon Co., 394 U.S. 759 (1969)**. Accordingly, it is directed that an eligibility list containing the *full* names and addresses

of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of this decision. North Macon Health Care Facility, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

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, N.W., Washington, D.C. 20570-0001. This request must be received by the Board in Washington, by **July 8, 1999**.

Dated at Cleveland, Ohio this 24th day of June 1999.

/s/ Frederick J. Calatrello

Frederick J. Calatrello
Regional Director
National Labor Relations Board
Region 8

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