

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Eighteenth Region

RYDER INTEGRATED LOGISTICS, INC.

Employer

and

TEAMSTERS UNION LOCAL 650, affiliated with
the INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, AFL-CIO

Petitioner

Case 18-RC-16619

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.

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

Upon the entire record in this proceeding, I find:

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.¹

¹ The Employer, Ryder Integrated Logistics, Inc., is a Delaware corporation headquartered in Miami, Florida. During the past calendar year, the Employer, at its Waterloo, Iowa facility, has purchased and received goods and materials valued in excess of \$50,000 directly from points outside the State of Iowa. During the same period, the Employer derived gross revenue in excess of \$1 million from logistic center services provided to Deere & Company at Waterloo, Iowa.

3. The labor organizations involved claim to represent certain employees of the Employer.²

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.

5. Petitioner seeks a unit of all full-time warehouse employees; excluding production clerks, short-haul truck drivers, regular team leaders, guards, professional, technical and office clerical employees and supervisors as defined in the Act. The Employer contends that the only appropriate unit should also include production clerks, short-haul truck drivers and team leaders. The Intervenor maintains that "some of the excluded groups should be included." The parties stipulated that the following managers should be excluded: Interim Senior Logistics Manager Tony Brown; Transportation Manager Robert Beckham; Logistics Manager Bob Van Erem; a Logistics Manager position that is currently vacant, but was Brown's position before his assumption of the Interim Senior Logistics Manager position; and Second Shift Manager Dan Perrizo. Each of the aforementioned managers have employees who report to them. In addition, the parties agreed to exclude Systems Administrator Phil Duncan and CSM Warehouse Bill Hulme. Finally, the parties stipulated to the exclusion of Administrative Assistant Pam Wright, who is an office clerical employee.

² The Motion to Intervene of International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW) was granted "only with regard to the unit of warehouse employees sought by the Petitioner" by Order on March 28, 2000. On April 5, 2000, after the close of the hearing, the Intervenor filed Case 18-RC-16642, seeking a unit of "all full-time warehouse employees, production clerks, short haul truck driver employees, and regular team leaders." As the Intervenor is seeking to cross-petition after the close of the hearing, the petition in Case 18-RC-16642 is untimely filed and is hereby dismissed, with no effect on its status as Intervenor. NLRB Casehandling Manual Part Two Representation Proceedings, Section 11026.2

There are 34 employees in the unit sought by Petitioner—all employed in the warehouse as forklift drivers/material handlers. The Employer would include an additional 21 employees, including nine drivers, six production clerks and six team leaders. Petitioner, contrary to the Employer, maintains that the team leaders are supervisors within the meaning of Section 2(11) of the Act; and that the production clerks and drivers do not share a community of interest with the warehouse employees.

The Employer's Waterloo, Iowa operation has one customer—the John Deere production facility, also located in Waterloo, Iowa. The Employer receives, stores, retrieves and ships product both from John Deere to its customers, and from suppliers of John Deere to the John Deere plant. In addition, the Employer cleans and ships back to vendors containers that John Deere suppliers use to ship material to the Employer so the containers can be reused, which is known as the "returnable container operation." The Employer also operates a "kitting" area, which is a small assembly and limited packaging operation.

The head of the Employer's Waterloo operation is Acting Senior Logistics Manager Tony Brown. Reporting directly to Brown are each of the remaining managers/employees that the parties agree should be excluded from the unit. Responsible for the returnable container operations is Logistics Manager Bob Van Erem. The returnable container operations consist of six employees, including Team Leader Darrell Parmer. Van Erem also manages kitting, CWIS (a John Deere worldwide inter-factory system for shipping parts to various John Deere plants), COMAR (a John Deere dealership network for shipping spare parts), and SPS (small package shipping of parts via UPS or similar companies to dealers). This aspect of Van Erem's responsibility has eight employees, including Team Leader Chris Ollendieck and

Production Clerk Brenda Shelton. Petitioner seeks to represent all employees managed by Van Erem except the team leaders and Production Clerk Shelton, while the Employer contends all but Van Erem should be included in the unit. Logistics Manager Tony Brown (who is also Acting Senior Logistics Manager) manages the Employer's receiving, inventory control, and Metokote operations. The receiving area consists of 11 employees, including Team Leader Chad Borwig and Production Clerks Linda Fisher and LaDonna Wright. Inventory Control consists of Inventory Specialist John Burke, with assistance from Mark Eylers. Metokote is a part of the operation where employees employed by a different employer paint parts from various steel stamp suppliers. The parts are received at the Employer's facility unpainted. They are stored by employees of the Employer. They are picked out by the Employer's employees and sent to Metokote for painting. After painting, the parts are stored again for eventual shipment to the factory. There are seven employees employed by the Employer in its Metokote area, including Team Leader John Higgens and Production Clerk Mary Handberg. Finally, in his job as Logistics Manager, Brown supervises Utility Team Leader Nicole Lewis, who fills in as team leader where needed and has a systems administrative role. With regard to the employees managed by Brown in his job as Logistics Manager, Petitioner seeks to represent all employees except the team leaders, the production clerks, and the inventory control specialist, while the Employer contends that the unit should include all but Brown. Second Shift Manager Dan Perrizo oversees the Employer's second shift, which operates from 5:00 p.m. to 1:30 a.m. Sundays through Tuesdays. There are 11 employees reporting to him, including Team Leader Duane Allen. Petitioner seeks to represent all employees reporting to Perrizo except the team leader, while the Employer would include the team leader.

Essentially, virtually all employees that the parties agree are in the unit are material handlers who operate forklifts. Some also check in product or kit. First shift material handlers mainly unload trucks and put product away, while second shift material handlers largely pick product out of inventory for shipping.

Finally, the Employer also employs nine truck drivers and Production Clerk Deb Bachtell, all of whom are under the supervision of Transportation Manager Robert Beckham. While Petitioner would exclude all employees under Beckham's management, the Employer would include all of them.

All employees of the Employer, other than those excluded from the unit by stipulation of the parties, are hourly paid and punch the same time clock. All employees enjoy the same benefit package, are subject to the same corporate guidelines, and are given the same employee handbook. According to the Employer, all employees are on the same seniority list, and a more senior warehouse employee could bump a less senior production clerk in the event of a layoff (although the Employer has never had an involuntary layoff). The hourly wage ranges for the various groups are as follows: Warehousemen—\$9.60 - \$11.92; production clericals—\$10.00 - \$10.84; team leaders—\$12.55 - \$13.18; and drivers—\$12.00 - \$12.97.

The classifications of employees in dispute are as follows:

Team Leaders

Employer evidence, unrebutted by Petitioner, is that team leaders do not hire, fire, discipline, grant time off or evaluate employees.³ In fact, one of Petitioner's witnesses indicated that on an occasion when he was too mouthy with his team leader, he was pulled aside by Van Erem, who discussed the matter with the witness. Team leaders do report information to Tony Brown regarding employee conduct, which Brown evaluates in deciding whether to issue discipline. Team leaders also notify employees of the need to work overtime, but the decision that overtime is necessary is made by managers above team leaders. One of Petitioner's witnesses testified that he asked his team leader if he could get out of mandatory overtime, that the team leader denied the request after checking with Brown. There is almost always a manager present at the Employer's facility, and the only circumstance where a team leader would be the person of highest authority in the facility would be if a manager were unexpectedly absent and the Employer had no other manager at the facility and no time to plan coverage. The Employer maintains that team leaders drive forklifts regularly, and Petitioner witnesses agree that team leaders drive forklifts frequently when the Employer is busy. Team leaders do direct the work of employees, and can move employees from one job to another. However, it also appears that employees know what to do and are not necessarily assigned work by team leaders on a daily basis. Two warehouse employees testified that most mornings work is waiting for them and they just start

³ One witness for Petitioner testified that on one occasion Acting Senior Logistics Manager Brown said to him that Team Leader Joe Higgins was coming in to do evaluations. Another witness for Petitioner testified that a team leader, Darrell Parmer, told him he talks to Bob (Van Erem) about what employees deserve for evaluation. The testimony, however, fails to establish that team leaders independently evaluate employees.

doing the work without checking with the team leaders, although one of the two also checks the desk for messages from the team leader. Team leaders also train new employees. The Employer also maintains that team leaders cannot grant requests for time off, and that only Van Erem, Beckham, Perrizo or Brown can sign off on time off requests. Team leaders are paid more than warehouse employees, but not, according to the Employer, because of any purported responsibilities over employees. Rather, the Employer maintains that the premium pay is due to a past practice of paying a premium for "super team leaders" (which no longer exist) and an inability to determine how to deal with premium pay for team leaders (some of whom used to be super team leaders). Finally, team leaders do not attend weekly supervisory meetings, although team leaders do have meetings with managers. On one occasion, over a year ago, team leaders also participated in training regarding management skills.

Truck Drivers

The Employer's truck drivers are primarily shuttle drivers. That is, they shuttle product from the Employer's facility to the John Deere facility, and vice versa. Some driving also occurs in the Employer's yard to move trucks or material. On rare occasions, truck drivers might be assigned an inter-city or inter-county run. Drivers are supervised by Robert Beckham. Other than a production clerk, Beckham does not supervise employees not classified as drivers. Drivers report to the Employer's facility each day to punch in. During the second shift, warehouse employees notify drivers directly when trucks are loaded. During the first shift, warehouse employees notify the dispatcher, who in turn notifies the drivers.

Drivers and warehouse employees share the same break room. Drivers can apply for warehouse jobs, and warehouse employees can apply for drivers' jobs, but there is no evidence that any have done so. Drivers never operate forklifts, and do not load or unload trucks. Basically, a driver backs the truck up to a dock at the facility, drops the attached trailer, and goes on to what he has to do next. Drivers are provided uniforms by the Employer that differ from the polo shirts and t-shirts that the Employer provides for warehouse employees. Drivers work 24 hours per day, and therefore three shifts. Warehouse employees work two shifts. The Employer conducts meetings for its drivers that are not attended by other employees, although it appears that other groups of employees have individual group meetings. There is no evidence of regular work-related day-to-day contact between drivers and warehouse employees other than when night shift employees tell drivers that trucks are loaded.

Applicants for warehouse positions are not required to have special skills other than past experience, driving abilities for operation of forklifts, understanding of bar codes, and ability to operate a hand-held RF unit. Applicants for driver positions must have a Class A CDL with Hazardous Materials Endorsement and two years' experience with tractor trailers; must pass a Ryder-administered road test and DOT physical and drug screen; and have had no DUI for seven years and no serious moving violations for three years.

Production Clerks

While Petitioner's proposed unit description refers to excluding production clerks, it does not appear that the Employer utilizes that broad classification. Rather, each clerk has a title. The clerks share the same benefits, break room, time clock and

employee handbook with other warehouse employees and drivers. The clerks do not work in the same area of the facility and do not share the same supervisor with one another. Rather, the clerks are assigned to the various operating areas of the facility, and are, therefore, supervised by the same supervisor as warehouse employees; and some work in the same areas as warehouse employees. The returnable shipping clerk (Brenda Shelton) therefore supports the activities of the returnable container operations, as well as CWIS, COMAR and other systems programs. Shelton prints paperwork for use by material handlers, who put the paperwork with the product. She also checks discrepancies between the paperwork and product on the floor. The kit scheduling clerk (Rene Johns) is responsible for getting parts from the John Deere factory and from vendors to the kit area in time for use by kitting employees. According to the Employer, Johns has regular contact with kit builders to discuss part shortages or overages, and to forecast workflow. Johns also assists Shelton. The Employer maintains both are on the floor each day transporting paperwork. Both have their work stations in a portable office (referred to as the hut) in the warehouse area. One of Petitioner's witnesses indicated that he interacts with Shelton and Johns, in that he gives them paperwork for trucks he has unloaded and they run bills of lading for those trucks.

The Metokote clerk (Mary Handberg) has a work area in the northeast corner of the Employer's facility, near the area of the Metokote operation. She prints paper orders used by Metokote warehouse employees to pick product, keeps track of inventory, verifies the product painted, and is the "hot order" clerk. As the hot order clerk, she takes telephone calls from the John Deere factory requesting that particular parts be transported to the factory as soon as feasible. She gets a material handler to pick the product and makes sure it is transported to the factory promptly.

The advance shipping notice (ASN) receiving clerk (Linda Fisher) tracks parts sent by suppliers. The supplier is supposed to send to Fisher transaction forms before shipping product. If the supplier does not, Fisher must create the ASN, which indicates the quantity and numbers of parts being shipped by the supplier. She compares the packing lists to computer records. According to the Employer, she is on the floor daily, and her job is integral for keeping product flowing. The work area for the ASN receiving clerk is in the same office area as the inventory control specialist.

The scheduling clerk (LaDonna Wright) receives calls from trucking companies that wish to schedule deliveries of material from suppliers. She contacts the warehouse employees to determine to which dock door the truck should be directed. Warehouse employees maintain radio contact with Wright to advise her of supplies being delivered. Wright also generates ASNs. According to a witness provided by Petitioner, Wright calls him four or five times a week and asks that he unload trucks or vans that are too small to unload at the docks.

Finally, the transportation clerk (Deb Bachtell) accesses data from driver manifests and enters the data on a spreadsheet. She also backs up dispatching and takes radio calls from drivers and warehouse employees. Her work station is in the same office area as the inventory control specialist.

There is no evidence that any of the above-described clerks have ever been employed as warehouse employees. However, one warehouse employee did fill in for a scheduling clerk (not Wright) during a five-to-six-month maternity leave in 1999, and did apply for the position when it opened up. LaDonna Wright was selected for the job.

Only the inventory control specialist (John Burke) is not part of an operational group of the Employer. He is paid \$11.92 per hour. John Burke has held the position

since 1997. Before 1997, Burke was a material handler. Burke's job is to correct inventory discrepancies between the Employer and John Deere. In addition, Burke deals with missed deliveries, and tracks inventory. The Employer suggests that Burke is on the floor to track down inventory. Petitioner's witness maintained that Burke is not on the floor often because he sends Mark Eylers (whom Petitioner would apparently include in the unit) to the floor to find inventory.

Conclusions

On the basis of the foregoing and the record as a whole, I conclude that team leaders are not supervisors within the meaning of the Act. It is well established that the burden of establishing supervisory authority is on the party asserting it. Tucson Gas & Electric Company, 241 NLRB 181 (1979). It is clear from the record developed herein that team leaders do not hire or fire, recommend hiring or wage increases, discipline, evaluate, authorize overtime or schedule employee work hours or time off.

The facts that team leaders train new employees, assign work, and are responsible for some paperwork are insufficient to establish supervisory status. It appears from the record that assignment of work is routine and based on meeting production needs. Moreover, the record contains no evidence that, in training employees, team leaders exercise independent judgment. J. C. Brock Corp., 314 NLRB 157 (1994); Cook Composites & Polymers Co., 313 NLRB 1105 (1994); Quadrex Environmental Co., 308 NLRB 101 (1992); John N. Hansen Co., 293 NLRB 63 (1989).

On the basis of the foregoing and the record as a whole, I further conclude that employees employed by the Employer as truck drivers do not share a community of interest with the warehouse employees sufficient to require their inclusion in the unit.

This conclusion is based on the facts that the drivers have duties distinct from those of the warehouse employees; have different uniforms and shifts of work; are covered by DOT regulations; are separately supervised; and appear to spend only a small percentage of their time interacting with warehouse employees or in the warehouse. While some facts would support including the drivers in a unit with warehouse employees, the unit sought by Petitioner, excluding drivers, constitutes an appropriate unit, and a petitioner is not compelled to seek the most appropriate unit. In these circumstances, I shall exclude the drivers from the unit. Lundy Packing Co., 314 NLRB 1042 (1994); Marks Oxygen Company of Alabama, 147 NLRB 228 (1964); E. H. Koester Bakery Co., Inc., 136 NLRB 1006 (1962). Accord: Ryder Integrated Logistics, Inc., 329 NLRB No. 1989 (1999).

Finally, except for the transportation clerk, I also conclude that the remaining "production clerks" and the inventory control specialist share a sufficient community of interest with the warehouse employees to require their inclusion in the unit. I reach this conclusion because the various clerks perform duties integral to the functioning of the Employer's warehouse. They are critical to workflow; they prepare paperwork for various functions performed by warehouse employees; and, in performing these functions, they have day-to-day contact with warehouse employees. While the evidence suggests that the inventory control specialist is in the warehouse less frequently, nevertheless, he has regular contact with a warehouse employee that Petitioner apparently would include in the unit. Moreover, the clerks share common benefits and similar wages with the warehouse employees. Finally, and very importantly, the various clerks are functionally integrated into the various operational groups of the warehouse, and are supervised by the same individuals who supervise

the warehousemen in various operational groups. John N. Hansen Co., 293 NLRB 63, 65 (1989). Therefore, I will include in the bargaining unit the returnable shipping clerk, kit scheduler, Metokote clerk, ASN receiving clerk, scheduling clerk and inventory control specialist. However, because the transportation clerk is supervised by the same manager who supervises the truck drivers, because she appears to work closely with the truck drivers—and not the warehouse employees, and because I am excluding the truck drivers from the bargaining unit, I will exclude the transportation clerk from the unit.

6. 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 warehouse employees employed by the Employer at its Waterloo, Iowa facility, including team leaders, the returnable shipping clerk, kit scheduler, Metokote clerk, ASN receiving clerk, scheduling clerk and inventory control specialist; excluding truck drivers, the transportation clerk, office clerical employees, guards and supervisors as defined in the Act, as amended.

DIRECTION OF ELECTION⁴

An election by secret ballot will be conducted by the undersigned among the employees in the unit found appropriate in the manner set forth in the Notice of Election

⁴ 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. This request must be received by the Board in Washington by **April 21, 2000**.

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 below, 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 persons 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.⁵

Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by Teamsters Union Local 650, affiliated with the International Brotherhood of Teamsters, AFL-CIO; by International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW); or by Neither.

⁵ 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); NLRB v. Wyman-Gordon Co., 394 U.S. 759 (1969). Accordingly, it is directed that **three** copies of an election eligibility list containing the *full* names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within seven (7) days of the date of this Decision and Direction of Election. North Macon Health Care Facility, 315 NLRB 359 (1994). The Regional Director shall make the list available to all parties to the election. In order to be timely filed, these lists must be received in the Minneapolis Regional Office, Suite 790 Towle Building, 330 Second Avenue South, Minneapolis, MN 55401, on or before **April 14, 2000**. No extension of time to file this list may be granted by the Regional Director except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

Signed at Minneapolis, Minnesota, this 7th day of April, 2000.

/s/ Ronald M. Sharp

Ronald M. Sharp, Regional Director
Eighteenth Region
National Labor Relations Board

Index # 177-8560-1000
177-8560-1500
177-8560-7000
440-1760-1580
440-1760-6780