

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

Evansville, IN

FALCONITE EQUIPMENT, INC.
Employer

and

Case 25-RC-9932

LOCAL UNION NO. 181, INTERNATIONAL
UNION OF OPERATING ENGINEERS
Petitioner

and

Case 25-RC-9937

CHAUFFEURS, TEAMSTERS, AND
HELPERS LOCAL UNION NO. 215, a/w
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS
Petitioner

DECISION AND DIRECTION OF ELECTION

Upon two petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held on May 31, 2000, 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 error and are hereby affirmed.¹

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 The ruling of the hearing officer denying Petitioner IUOE's motion to separate witnesses is hereby affirmed. To sequester witnesses lies within the discretion of the hearing officer; and since pre-election representation hearings are investigatory and nonadversarial, the rules of procedure applicable to unfair labor practice hearings are not necessarily applicable. Moreover, Petitioner IUOE has not cited any evidence indicating it suffered prejudice as a result of the ruling of the hearing officer.

3. The labor organizations involved claim 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.

5. 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 truck drivers, mechanics and parts runners employed by the Employer at its Evansville, Indiana facility; BUT EXCLUDING all temporary employees, office clerical employees, salesmen², professional employees, guards and supervisors as defined in the Act.

The unit found appropriate herein consists of approximately 9 employees.

STATEMENT OF FACTS

The Employer, Falconite Equipment, Inc., operates a facility in Evansville, Indiana where it repairs, maintains and sells air lifts, cranes, fork trucks and other types of construction equipment. The Employer's corporate headquarters is located in Paducah, Kentucky, and the Employer also operates facilities in Indianapolis, Fort Wayne, and South Bend, Indiana. The Employer's Evansville facility has existed for nearly four years and services customers within a radius of approximately 150 miles.

The Employer's Evansville facility is located in a single building which is shared with another unrelated business. Upon entering the property there is a driveway to the right of the building which leads to the back where the Employer stores its equipment in a gravel yard approximately two to three acres in size. In the building itself, the office is located in the front and is occupied by the secretary, management officials, and the salesmen. Past that office is the parts department, and in the rear of the building is the shop area.

Management at the Evansville facility consists of three positions: Branch Manager, Service Manager, and Rental Coordinator. The Branch Manager runs the everyday operations at the facility and is responsible for ordering and purchasing equipment for sale or rental. The Service Manager and Rental Coordinator report to the Branch Manager and are responsible for delegating work responsibilities to other employees. In addition to these managers, a secretary and three salesmen are also employed at the Evansville facility.

² There was testimony at the hearing that Employer employs three salesmen at its Evansville, Indiana facility. Neither Petitioner requested that these salesmen be included in their petitioned units and no evidence exists indicating that it would be appropriate to include them in said unit. The salesmen are therefore excluded from the unit.

The facility also employs six mechanics, two truck drivers, one parts runner, and one utility person. The mechanics are primarily responsible for the service and repair of the Employer's equipment in the shop and in the field. The truck drivers are primarily responsible for delivering equipment from the shop to the Employer's customers in the field. The parts runner works in the parts department and is responsible for ordering parts needed by the mechanics, assisting mechanics in locating parts in the parts room, and ensuring that certain parts are kept in stock in the parts room. The utility person works in the shop and generally acts as a helper. He washes equipment, picks up and delivers parts, changes oil in equipment and performs other light maintenance in addition to assisting the mechanics and drivers on an as-needed basis.

In Case 25-RC-9932 the Petitioner Local Union No 181, International Union of Operating Engineers (hereinafter referred to as "Petitioner IUOE") has petitioned to represent a unit consisting of the following of the Employer's employees:

All mechanics employed in the Evansville Shop and Operators in the Evansville Shop; BUT EXCLUDING all office, clerical, janitorial, supervisory, truck drivers, guards, and all other employees.³

Petitioner IUOE asserts that the above-described unit is appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act because the mechanics at the Employer's Evansville facility allegedly do not share a community of interest with the truck drivers, parts runner, or utility person. Petitioner IUOE argues, therefore, that a unit comprised of only the mechanics at the Evansville facility is appropriate.

In case 25-RC-9937 Petitioner Chauffeurs, Teamsters and Helpers Local 215, a/w International Brotherhood of Teamsters (hereinafter referred to as "Petitioner Teamsters") has petitioned to represent a unit comprised of the following of the Employer's employees:

All full time and regular part-time truck drivers, mechanics, utility persons and parts runners employed by the Employer at its Evansville, Indiana facility; BUT EXCLUDING all office clerical employees, professional employees, and guards and supervisors as defined in the Act.⁴

Petitioner Teamsters asserts that the above-described unit is a unit appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act because the mechanics, truck drivers, parts runner, and utility person all share a community of interest and should therefore be included in a single unit.

³ Petitioner IUOE amended its petition at the hearing to include the phrase "all other employees" in the exclusions of its requested unit. Contrary to the unit description in the IUOE petition, however, no operators are employed at the Evansville facility.

⁴ Petitioner Teamsters amended its petition at the hearing to request the above described unit.

The Employer currently employs one individual in the position of parts runner. The parts runner has an office located in the shop area and is paid on an hourly basis⁵. The parts runner's office is located outside the parts room and it is necessary to pass her desk in order to enter that area. The parts runner keeps the key to the parts room, and other employees are not allowed in the parts room unless she is present. Her job duties are to order and process parts and to ensure that the mechanics are supplied with the parts they need. When a mechanic needs a part, he goes to the parts runner and informs her what part is needed. The Employer has parts requisition forms, but they are not generally used by the mechanics who simply verbally inform the parts runner what parts they need. The parts runner is either given the serial number of the machine by the mechanic needing the part or else she looks up the serial number herself. She then uses that serial number to contact the manufacturer and order the part. If the manufacturer delivers the wrong part, it is the responsibility of the parts runner to contact the manufacturer and have the correct part delivered.

As described above, the parts runner has the key to the parts room where parts which the Employer regularly keeps in stock are stored. If a mechanic needs a part that is kept in the stock room, he informs the parts runner what part he needs, and the parts runner retrieves that part for him. If the mechanic is unsure of what part he needs, then he can go into the parts room with the parts runner, and she assists him in locating the needed part. The parts runner also regularly receives calls from mechanics in the field to find out if a certain part is in stock. The parts runner is also responsible for keeping a record of parts that are taken out of the parts room. The parts runner also occasionally picks up parts from suppliers that are needed right away. The parts runner typically makes these pick-ups once or twice a month. In addition to this interaction with the mechanics, the parts runner also interacts with the truck drivers in the same fashion when they need parts for their trucks.

The parts runner's uniform consists of a dark blue polo-type shirt with the word "Falconite" stitched on the shirt. Her uniform is provided by the Employer. The parts runner is supervised by the Service Manager. The parts runner's normal starting time is 7:30 AM and her normal ending time is 5:00 PM. She generally works between 40 and 45 hours a week. The parts runner uses the same time clock as the other employees and punches in and out on that clock for lunch as well as her starting and quitting time. She also receives the same fringe benefits as other employees.

The Employer currently has one employee in the position of utility person. The employee currently occupying that position has only been employed by the Employer for about one month, and there was no evidence at the hearing that the no utility person position existed before that individual was hired. The position of utility person is a part-time position. The utility person works a minimum of twenty hours a week. The utility person works additional hours when full-time employees are on vacation. The utility person is paid on an hourly basis but is not eligible for any of the benefits, including a 401(k) plan, which are available to the other employees. The utility person is supervised by the Service Manager. The utility person's

⁵ The parts runner is paid \$9.50 an hour.

starting time is approximately 9:00 AM, and his quitting time is approximately 3:00 PM⁶. The utility person wears the same uniform as the mechanics and truck drivers which consists of grayish brown pants and a light blue pinstriped shirt. The shirt has the name of the Employer on the left side and the name of the employee on the right side. All of the employees' uniforms are provided by the Employer.

The utility person's duties are to wash equipment, find parts, deliver equipment, and assist the mechanics if they have a job that requires more than one person. The utility person is also permitted to do light maintenance on equipment such as changing oil, but he is not permitted to make any substantial repairs on equipment. When the mechanics have completed work on a piece of equipment, they instruct the utility person to wash the equipment. The utility person washes the equipment, takes it out and puts it on the Ready Roll and tests it to make sure that it is operating. The utility person has frequently delivered parts to mechanics in the field but has only delivered equipment on one occasion. The utility person also cleans the shop area. He sweeps the floors and picks up trash.

The employee currently holding the position of utility person is Dustin Sergesketter. Sergesketter is a student about to enter his final year at the University of Evansville. Sergesketter is studying sports medicine. At the hearing no evidence was offered that the Employer would continue to employ Sergesketter after the Summer is over and he returns to his studies. It was consistently stated that the Employer was taking a wait and see attitude with Sergesketter. The Employer stated that Sergesketter might continue to work for the Employer in the Fall as long as his work did not conflict with his studies. The obvious implication being that if his work for the Employer did interfere with his studies then he would no longer work for the Employer.

The Employer currently has two truck drivers at its Evansville, Indiana facility. Both drivers are paid on an hourly basis and use the same time clock used by all of the other employees which is located in the breakroom. The truck drivers receive the same benefits as the parts runner and mechanics. The truck drivers wear the same uniforms worn by the mechanics and the utility person. The truck drivers also take the same length of time for breaks and lunches as the other employees. All of the employees take a fifteen minute break in the morning and a fifteen minute break in the afternoon with an hour for lunch. The truck drivers are supervised by the Rental Coordinator who relays orders for equipment from the customers to the drivers.

The truck drivers' primary responsibility is to deliver equipment to the Employer's customers in the field. The truck drivers make these deliveries using the Employer's large semi trucks. The truck drivers are required to have CDL⁷ licenses so that they can operate those trucks. No other employees are required to have CDL licenses, and the truck drivers are the only employees who drive the Employer's largest trucks. The Employer's truck drivers typically work about 55 hours a week. Approximately three days a week, truck drivers drive their Employer-

⁶ The utility person is allowed to stop work at 3:00 PM so that he can attend soccer practice.

⁷ A Commercial Driver's License

owned truck home after work loaded with equipment and the following morning drive straight from their homes to the customer and deliver the product. On those occasions, truck drivers simply write down what time they started rather than punch the time clock. After dropping off the equipment, the truck drivers then drive to the Employer's facility to receive their next assignment. The time cards the truck drivers fill out are initialed each week by the Branch Manager.

The Employer currently has six mechanics at its Evansville, Indiana facility. These mechanics are paid on an hourly basis. The mechanics' rate of pay is approximately \$14.95 an hour. The mechanics use the same time clock used by the Employer's other employees and wear the same uniform as the utility person and the truck drivers. The Employer's mechanics also take the same number and length of breaks and lunches as the Employer's other employees. The mechanics also share the break room and the bathroom with all of the Employer's other employees. The mechanics are supervised by the Service Manager.

The Employer has two types of mechanics at its Evansville facility. Five of the mechanics are classified as road (or field) mechanics. These individuals service and repair equipment in the field where it is being used by the Employer's customers. The other mechanic is classified as a shop mechanic. The shop mechanic does not go into the field but instead services and repairs the Employer's equipment in the shop at the Employer's Evansville, Indiana facility. The mechanics are all provided with Employer-owned service trucks and are permitted to drive the trucks home in the evening. Approximately three days a week road mechanics drive straight from their homes in the morning to the customer's site to perform maintenance work and the Employer's equipment. After completing those jobs, they then drive back to the shop at the Employer's facility to receive their next assignments. On the days when they do not drive straight from home to an assignment, mechanics report to the shop at 6:30 AM. The mechanics' assignments are posted on a large board in the shop by the Service Manager. The board simply lists a customer and piece of equipment that needs to be readied for that customer. It does not contain specific instructions for any mechanic on which job he should be doing. The mechanics receive their assignments from that board and then drive to the customer's location to make the necessary repairs. All of the mechanics also carry cellular phones to receive assignments, and the Employer reimburses the mechanics for the cost of those phones.

One of the mechanics employed by the Employer is Tim Church. Church was previously employed as Service Manager, but on an uncertain date he was transferred to a the position of lead mechanic. Church continues to receive approximately \$2.00 an hour more than the other mechanics. Church substitutes for the Service Manager approximately two weeks a year while the Service Manager is on vacation. Church also substitutes for the Service Manager when he is out of the office which happens about one day a month. During those times when he is acting as the Service Manager, Church does not have the authority to hire, fire, transfer, suspend, layoff, adjust grievances or effectively recommend discipline. The record indicates that when Church is acting as Service Manager, he sometimes distributes work assignments to other mechanics, but there was no evidence that Church exercises any of independent judgment in making these assignments. Church drives an Employer-owned service truck like the other mechanics, but there was testimony at the hearing that for reasons not stated, Church keeps his

tools in the shop and not in his truck. The other road mechanics keep their tools in their service trucks. Church uses the same time clock and break room as the other mechanics and wears the same uniform that they do. He does not have an office.

The record contains substantial testimony of interaction between truck drivers and mechanics. Both truck drivers and mechanics work in the shop area at the rear of the Employer's facility. Truck drivers and mechanics use the same time clock and share a break room. Truck drivers and mechanics wear the same uniform. They receive the same benefit package and are subject to the same work rules and policies. Truck drivers are paid approximately one dollar an hour less than mechanics. All the truck drivers and mechanics are hired by the same individual, the Branch Manager. Truck drivers occasionally do maintenance on equipment which they deliver to customers. In some of those situations the truck driver calls back to the Employer's facility to report the problem with the equipment he just delivered. The truck driver speaks to the mechanic and if it is a problem the truck driver can fix, then the mechanic tells him how to correct the problem. If it is a problem that the truck driver cannot correct, then the mechanic will drive to the site and fix the problem. Truck drivers also regularly assist mechanics in making repairs on the Employer's equipment in both the shop and the field. Mechanics also are sometimes required to attach trailers to their service trucks and deliver equipment to customers in the field. Mechanics also assist truck drivers in loading and unloading their trucks. Mechanics also routinely perform maintenance work and repairs on the truck driver's trucks. Both truck drivers and mechanics are required by the Employer to furnish their own tools.

DISCUSSION

In its amended petition Petitioner Teamsters requests an election to determine its representative status in regard to a "wall to wall" unit of the Employer's employees at its Evansville, Indiana facility including mechanics, truck drivers, parts runners, and utility persons. In its amended petition Petitioner IUOE seeks an election to determine its representative status in a unit comprised of only mechanics employed by the Employer at its Evansville, Indiana facility excluding all of the Employer's other employees. The Employer contends that the unit sought by Petitioner Teamsters is the appropriate unit. Under Section 9(b) of the Act, the Board has broad discretion to determine the unit appropriate for the purposes of collective bargaining in each case in order to assure to employees the fullest freedom in exercising the rights guaranteed by the Act, *See NLRB v. Action Automotive, Inc.*, 469 U.S. 490, 494-497, 118 LRRM 2577, 2579-2581 (1985). The Board's discretion extends to selecting an appropriate unit from the range of units which may be appropriate in any given factual setting; it need not choose the most appropriate unit, *American Hospital Association v. NLRB*, 499 U.S. 606, 610, 137 LRRM 2001, 2003 (1991); *P.J. Dick Contracting, Inc.*, 290 NLRB 150, 151 (1988).

In seeking a unit which includes only mechanics, Petitioner IUOE asserts that there is no community of interest between the mechanics and the truck drivers, the parts runner and the utility person. Petitioner Teamsters and the Employer contend that all of those job classifications share a community of interest and should be included in a single unit. The factors used by the Board in determining whether a group of employees share a community of interest include their

method and form of remuneration, hours of work, benefits, supervision, training and skills, interchange of employees, contact between employees, and the history of the bargaining unit, Kalamazoo Paper Box Corp., 136 NLRB 134 (1962).

With the exception of the Paducah facility, the bargaining units at the Employer's other facilities consist of single units comprised of mechanics and truck drivers. While the IUOE urges that the Board's determination herein should be guided by the parties' bargaining history in at the Paducah facility where there are separate units of drivers and mechanics, the record is devoid of evidence comparing the job functions, skills, and terms and conditions of employment of Paducah employees to employees of the Evansville facility. Therefore, it cannot be concluded that factors relevant to a determination of the appropriate unit in Evansville are identical to factors present at Paducah, or that the Paducah units should serve as a model for the Evansville facility.

The record further reflects ample evidence of a community of interest between truck drivers and mechanics. Both mechanics and truck drivers are paid on an hourly basis and there is only about a one dollar an hour difference in their respective wages. They share a common time clock and work similar hours. Mechanics start at approximately 6:30 AM and Truck drivers start at 7:30 AM, and both truck drivers and mechanics frequently start their day from their homes and perform work assignments prior to actually reporting to the Employer's facility. Both mechanics and truck drivers are permitted to drive their Employer-owned vehicles home in the evening. Both mechanics and truck drivers receive exactly the same benefit package. Mechanics and truck drivers operate under the same work rules and policies and the Employer has no rules or policies that do not apply to both groups equally. Truck drivers and mechanics also wear identical uniforms which are supplied by the Employer.

In addition to the above, mechanics and truck drivers frequently interact while performing their work duties for the Employer. Both mechanics and truck drivers spend a substantial portion of each day in the shop at the Employer's facility. This brings the two groups in close contact on a regular basis. Truck drivers also frequently perform minor repairs on the equipment which they deliver to the Employer's customers in the field, and these repairs are at times performed with telephonic assistance from a mechanic. Truck drivers also assist mechanics with the repair of equipment in the Employer's shop. In addition to this interaction, mechanics assist truck drivers on a daily basis with loading and unloading the driver's trucks. Mechanics also perform service and repairs on the truck driver's vehicles. Mechanics also are sometimes required to attach trailers to their service trucks in order to deliver equipment to customers in the field.

Petitioner IUOE cites two decisions in support of its position that the Employer's mechanics should be placed in a separate bargaining unit. These cases are distinguishable from the instant case.⁸ In Natural Gas Pipeline Company of America, 223 NLRB 1439 (1976), the

⁸ The other case cited by Petitioner IUOE, New Berlin Grading Co. v. NLRB, 138 LRRM 2657 (7th Cir. 1991), is also readily distinguishable from the instant case because in the former the Board held that a unit of mechanics and operators was the appropriate unit and that determination was never challenged by any of the parties.

employer covered a geographical area stretching from Texas to Illinois. The employer's operation were divided into six divisions, and the Board found that a unit comprised of employees of three of these divisions was an appropriate bargaining unit. The Board primarily based its decision on the fact that employees in the different divisions worked under different supervision. While mechanics and truck drivers employed at the Employer's Evansville, Indiana facility do have different direct supervisors, their situation is far different from the one in the above cited case. In Natural Gas Pipeline Company the employer had over 900 employees in its six divisions with some five different levels of supervision above each employee who were scattered from Texas to Illinois. In the instant case, truck drivers are supervised by the Rental Coordinator and mechanics are supervised by the Service Manager. Both the Service Manager and the Rental Coordinator are directly under the Branch Manager who is the top supervisory person at the Evansville, Indiana facility. Prior Board decisions have found, in light of other common community of interest factors, different immediate lines of supervision is not decisive when the employees are ultimately answerable to the same supervisor, Boston After Dark, Inc., 210 NLRB 38, 39 (1974); Saddleback Community Hospital, 223 NLRB 247, 249 (1976).

In NLRB v. Great Western Produce, 839 F2d 555, 127 LRRM 2662 (9th Cir. 1988) the Court of Appeals enforced the Board's summary judgment decision finding that the appropriate unit consisted of mechanics and truck drivers. In that case the employer maintained a warehouse and employed drivers, warehousemen, and mechanics. The Board found that the mechanics serviced and repaired the trucks of the drivers and the forklifts of the warehousemen and belonged in the same unit with those classifications. As stated above, in the instant case mechanics regularly service and repair the truck drivers' company-owned vehicles. Based on the above, it is clear that mechanics and truck drivers at the Employer's Evansville facility do share a community of interest and belong in a single bargaining unit.

In addition to the mechanics and truck drivers, the position of parts runner should also be included in the unit because the parts runner shares a substantial community of interest with the mechanics and truck drivers. The parts runner is paid on an hourly basis and uses the same time clock as the mechanics and truck drivers. The parts runner receives the same benefit package as the mechanics and truck drivers and is also required to wear an Employer-provided uniform. The parts runner is supervised by the Service Manager who also supervises the mechanics. The parts runner's office is directly adjacent to the shop and her job involves substantial interaction with the mechanics and truck drivers. The parts runner is responsible for ensuring that the mechanics and truck drivers receive the parts they need. She regularly communicates with employees in both of those classifications regarding needed parts and regularly assists them in locating parts in the Employer's parts room.

In Brown & Root, Inc., 314 NLRB 19 (1994) the Board included in a unit of construction and maintenance employees the position of toolroom/warehouse clerk. The toolroom/warehouse clerk was responsible for requisitioning the tools and equipment needed by each craft on the construction project. The toolroom/warehouse clerk interacted with the craft employees on a daily basis by issuing them tools and by inspecting the tools and equipment after each use. The Board held that based upon this substantial role in the construction process and the maintenance of daily contact with the craft employees, the toolroom/warehouse clerk should be included in

the unit. The Board's reasoning is equally applicable in the instant case to the parts runner. The parts runner has daily contact with the mechanics and truck drivers in order to ensure that they are supplied with needed parts. The parts runner also maintains the inventory in the parts room so that frequently used parts are kept in stock. The parts runner plays an important role in the duties of both mechanics and truck drivers and interacts with them on a daily basis. Based thereon, the parts runner is included in the bargaining unit.⁹

Dustin Sergesketter is employed by the Employer as a utility person and is the only individual currently occupying that classification at the Evansville facility. Sergesketter is a college student studying Sports Medicine at a community college who began working for the Employer approximately one month prior to the hearing on a part-time basis. The testimony at the hearing indicates that Sergesketter was hired for the summer but might continue to work for the Employer after school resumes in the fall provided such employment does not interfere with his studies and provided that his services are needed by the Employer. The evidence is clear that the Employer is taking a "wait and see" attitude concerning whether Sergesketter's employment will continue past the summer.

The Employer and Petitioner Teamsters urge the inclusion of Sergesketter within the petitioned unit, while Petitioner IUOE urges his exclusion on grounds that he is a temporary employee who lacks a true community of interest with unit members. The Board has held that summer students whose employment will terminate at the beginning of the school year are temporary employees and therefore not to be included in the bargaining unit, Sandy's Stores, Inc., 163 NLRB 728, 729 (1967); Giordano Lumber Co., Inc., 133 NLRB 205, 207 (1961). In the instant case there is no evidence that Sergesketter's employment will continue past the beginning of the school year. The Employer's Branch Manager testified that when he hired Sergesketter it was with the understanding that it was for the summer with the possibility of it being continued if that was convenient for both Sergesketter and the Employer. Sergesketter did not testify at the hearing so what his expectations are regarding the length of his employment with the Employer are unknown. Based upon the record evidence, it is concluded that Sergesketter is a temporary employee with no reasonable expectancy of continued employment at the end of this summer, and accordingly he shall not be included in the unit found appropriate herein.

At the hearing all of the parties submitted evidence regarding the supervisory status of mechanic Tim Church. At the close of the hearing Petitioner Teamsters and the Employer both took the position that Church was not a supervisor within the meaning of Section 2(11) of the Act and should be included in the bargaining unit. Petitioner IUOE declined to take a position on whether or not Church is a supervisor. In its post-hearing brief, Petitioner IUOE asserts that there was insufficient evidence produced at the hearing to determine Church's status. Thus, none of the parties contend that Church is a statutory supervisor.

⁹ Even if the parts runner did not share a community of interest with the mechanics and truck drivers, it would not be appropriate to exclude her from the unit. The Employer has only one parts runner and to exclude her from the unit would effectively deny her union representation because the Board will not certify a unit consisting of a single individual. Roman Catholic Orphan Asylum, 229 NLRB 251 (1977).

Section 2(3) of the Act excludes from the definition of the term "employee" any individual employed as a supervisor, and Section 2(11) of the Act defines a supervisor as a person who possesses any of the twelve powers listed therein, or the authority to effectively recommend such personnel actions if in doing so s/he exercises independent judgment. In determining whether an individual is a statutory supervisor, the Board and the courts are reluctant to interpret Section 2(11) with an expansive approach since the finding of supervisory status denies to the individual the rights and protections of the Act, Holly Farms Corp. v. NLRB, 517 U.S. 392 (1996). To this end, the Board closely examines the record in its determination of supervisory status, and conclusionary statements made by witnesses in their testimony, without supporting evidence, are insufficient to establish supervisory authority, Sears, Roebuck & Co., 304 NLRB 193 (1991).

The uncontradicted testimony of the Employer's Branch Manager at the hearing was that Church was formerly employed as Service Manager but that he had been transferred subsequently to the position of lead mechanic, and that Church does not possess the authority to independently hire, transfer, lay off, recall, promote, discipline (including discharge), reward, or adjust the grievances of employees. There was testimony from some employees that Church occasionally assigned work to other mechanics, but there is no evidence that Church exercises independent judgement in doing so. Church is paid on an hourly basis, wears a uniform, drives a service truck, and is not allowed to participate in the Employer's profit sharing plan which is reserved for supervisory personnel.

There was also testimony at the hearing that Church substitutes for the Service Manager approximately two weeks out of the year and one day a month. The Board held in Hexacomb Corp., 313 NLRB 983 (1994) that "an employee who substitutes for an absent supervisor is not deemed to be a supervisor unless his exercise of supervisory authority is both regular and substantial." In the instant case there is no evidence that Church has exercised any supervisory authority while substituting for the Service Manager. The Employer's Branch Manager testified that Church did not possess any of the twelve powers set forth in Section 2(11) of the Act even when he was substituting for the absent Service Manager. This testimony was not contradicted at the hearing. Based upon all of the evidence submitted at the hearing, it is concluded that Tim Church is not a supervisor within the meaning of Section 2(11) of the Act and he is included in the unit found appropriate herein.

For the foregoing reasons it is concluded that a unit comprised solely of mechanics employed by the Employer at its Evansville facility is not a unit appropriate for the purposes of collective bargaining. Conversely, it is concluded that a unit comprised of the Employer's mechanics, truck drivers and the parts runner does constitute an appropriate collective-bargaining unit.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned, among the employees in the unit found appropriate herein, at the times and places set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those employees 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 Local Union No. 181, International Union of Operating Engineers¹⁰ or Chauffeurs, Teamsters, and Helpers Local Union No. 215, a/w International Brotherhood of Teamsters, AFL-CIO.

LIST OF VOTERS

To insure 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 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). Accordingly, it is directed that 2 copies of an eligibility list containing the full names and addresses of all the eligible voters must be filed by the Employer with the undersigned within 7 days from the date of this Decision. North Macon Health Care Facility, 315 NLRB 359 (1994). The undersigned shall make this list available to all parties to the election. In order to be timely filed, such list must be received in Region 25's Office, Room 238, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Indianapolis, Indiana 46204-1577, on or before **June 23, 2000**. No extension of time to file these lists shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed. Failure to comply with this requirement shall be grounds for setting aside the elections whenever proper objections are filed.

¹⁰ An administrative inquiry into the showing of interest submitted by Petitioner IUOE in support of its election petition indicates that it possesses a sufficient showing of interest to warrant a place on the ballot.

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, DC 20570. This request must be received by the Board in Washington by June 30, 2000.

DATED AT Indianapolis, Indiana, this 16th day of June, 2000.

/s/ Rik Lineback
Rik Lineback
Acting Regional Director
National Labor Relations Board
Region 25
Room 238, Minton-Capehart Building
575 North Pennsylvania Street
Indianapolis, IN 46204-1577

RL/mb/ar

R25com\decision\9932and9937dde.doc

440-1760-6260
460-5067—4550
460-7550-8700