

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

**METALDYNE LESTER PRECISION DIE
CASTING, INC.**

Employer

and

Case No. 8-RC-16321

**TEAMSTERS LOCAL UNION NO. 507, a/w
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, AFL-CIO**

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.

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,¹ the undersigned finds:

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

¹ The parties have filed briefs which have been duly considered.

² In its post-hearing brief, the Employer seeks to reopen the record to include a proffer of evidence that was denied by the Hearing Officer. Through its Maintenance Manager Robert Stuhldreher, the Employer attempted to introduce evidence as to whether the maintenance technicians employed by the Employer were skilled in comparison to general standards of the industry in the area. Stuhldreher has been employed by the Employer for approximately 10 years. He testified on direct examination that the maintenance technicians would be qualified to work in other plants in the area if those plants had equipment exactly as that found in the Employer's facility. He further testified that the maintenance technicians would not be qualified to go into a general industrial plant and perform maintenance tasks on machinery that differed from the die cast machines in the Employer's plant.

The Hearing Officer sustained the Petitioner's objection and did not accept a proffer of further details regarding whether the maintenance technicians would be qualified to work elsewhere. The Hearing Officer ruled that the line of questioning was not relevant.

In support of its position that the evidence is relevant, the Employer relies on the Board's decision in **Allen-Bradley Company, 168 NLRB 15 (1967)**. That case does not appear to aid the Employer's argument that the record should be reopened to accept a proffer of evidence on this line of questioning. In that case, the petitioner

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 2(6) and (7) of the Act.

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:³

All full-time skilled maintenance technicians, including engineering technicians and maintenance lead technicians employed by the Employer at its Twinsburg, Ohio facility, but excluding all production employees, professional employees, guards and supervisors as defined in the Act and all other employees including facility maintenance and tool crib attendant/maintenance clerks.

There are approximately 21 employees in the unit found to be appropriate herein.

Issues

The primary issue here is unit composition. The Petitioner seeks to represent a craft unit of skilled maintenance technicians, engineering technicians and maintenance lead technicians.⁴

The Petitioner asserts that other maintenance department employees, facility maintenance

sought to sever a craft unit of electricians from an existing overall unit of production and maintenance employees. Evidence was submitted by the petitioner to illustrate the composition of bargaining unit employees in other plants in the area. The evidence was not introduced to show relative skill levels in particular job classifications. Rather, the evidence indicated that certain groups of employees such as maintenance electricians, and instrument maintenance men were in separate bargaining units in other plants. That evidence went directly to the propriety of severing electricians from an existing production and maintenance unit that had a 30-year bargaining history. In the present case, the Employer wishes to proffer evidence in order to establish that the skills of the maintenance technicians somehow do not equate with skills possessed by similarly classified employees at other plants. I find this line of questioning speculative insofar as the Employer's witness has been employed at the plant for 10 years and is not in a position to know the precise skills other plants require of similarly classified employees. Accordingly, I deny the Employer's request to reopen the record to proffer this line of evidence.

³ At hearing the Petitioner amended the petition to seek the unit set forth above.

employees and tool crib employees, should be excluded from the unit on the basis that they do not possess the skills of the maintenance technicians. The Employer maintains that the only appropriate unit includes all maintenance employees including the facility maintenance employees and tool crib employees.

I find that the unit sought by Petitioner constitutes an appropriate unit for purposes of collective bargaining and accordingly, I shall direct an election in that unit.

I was also presented with an issue involving the inclusion in the unit of maintenance technician Russell Martin. The Petitioner asserts that Martin should not be in the unit because he is a supervisor or managerial employee. The Petitioner also argues that Martin does not share the requisite community of interest with the other employees that Petitioner wishes to represent. The Employer takes the position that Martin is not a supervisor or managerial employee and urges that he be included in the unit.

I conclude that the evidence presented at the hearing is insufficient to establish that Martin should be excluded from the bargaining unit because he enjoys supervisory or managerial status. Moreover, he possesses a sufficient community of interest with the other maintenance technicians to warrant his inclusion in the bargaining unit.

The Employer raises a final issue in its post hearing brief. The Employer, for the first time, argues that the 3 maintenance technician lead employees are supervisors as defined in Section 2(11) of the Act and should not be included in the unit.

I find that the record does not support the Employer's contention that the maintenance lead technicians are 2(11) supervisors. Accordingly, the maintenance lead technicians will be included in the bargaining unit.

⁴ The engineering technician classification is not in dispute.

Facts

The Employer's facility, located in Twinsburg, Ohio, produces aluminum valve bodies that are used by auto makers such as GM and Ford in transmissions. Although the record does not set forth the exact hours, the plant operates on a 3-shift basis. A 4th shift is utilized for preventive maintenance. Maintenance employees on that shift work four 10-hour days, Thursday through Sunday.⁵ The Employer utilizes 24 die cast machines in production of the valve bodies. These die cast machines, along with automated equipment that is located at each die cast machine, comprise a manufacturing cell. According to the Employer's witnesses, the total value of each manufacturing cell is worth approximately \$1,000,000. The cells are highly automated and the primary duty of the machine operator is to start the machine and thereafter monitor the machine to ensure that production is running efficiently.

Collectively, maintenance department employees are responsible for the maintenance of the die cast machines, and related equipment as well as the maintenance of the building and the cleanliness of the facility. Each job classification within the maintenance department plays a distinctive role in ensuring the overall goals of the maintenance department. All employees in the maintenance department report to Maintenance Manager Jim Hixson.

The maintenance technicians are responsible for the repair/troubleshooting of the die cast machines. In carrying out this task, they utilize mechanical, hydraulic or electronic skills. Of the three maintenance technician classifications, maintenance technician A employees possess the highest degree of skill. They also have more experience than employees in the maintenance technician B and C classifications. Maintenance technician classification A employees are expected be able to diagnose a particular problem which may include reading various types of electronic or hydraulic schematics.

The type of qualifications and skills that the Employer requires of a maintenance technician A is illustrated in an ad that the Employer placed in the *Cleveland Plain Dealer* in 2001. The advertisement required that the applicant have a minimum of 5 years experience in equipment maintenance in a manufacturing environment. The particular skills sought were:

“Working in a multi-craft equipment maintenance department, strong working technical knowledge in PLC’s (AB PLC5), hydraulics, electrical/electronics, mechanics, experience dealing with facility related equipment repairs and maintenance, and knowledge of preventative maintenance principles and concepts.”

Stephanie Wagner, Human Resources Manager, testified that the Employer was seeking a maintenance technician “A” through the *Cleveland Plain Dealer* advertisement. She further testified that maintenance technicians B and C positions are usually posted internally and filled with employees from manufacturing.

The maintenance technician classifications “B” and “C” were referred to in the record as entry-level positions. The classifications are similar to apprentice or helper positions. They do not possess the same level of skills as a maintenance technician A. Maintenance technician C employees clean filters on the machines and remedy hydraulic leaks. Although the Employer does not have a required apprenticeship program, the Employer does reimburse employees for outside training expenses. The primary method of training for the entry-level positions is on-the-job training.

The maintenance technicians also work in a machine repair room that is located on the production floor. The maintenance technicians store their tools in this room as well as work on rebuilds of equipment. Some of the Employer’s automated equipment such as an extractor can be rebuilt by the maintenance technicians in the repair room. Automated machinery such as reciprocators and ladles are also rebuilt in the machine repair room.

⁵ Unless production is running on Saturdays and Sundays, tool crib employees do not work the 4th shift.

The record reveals that the maintenance technicians spend a majority of their time servicing the machines on the production floor. According to Petitioner witness, Ray Deluppo, approximately 18-20 times per shift maintenance technicians are required to perform some type of work on the machines. In order to perform their duties, the maintenance technicians employ a variety of tools. Deluppo has approximately 150 to 200 tools in the maintenance repair room. Some of these are provided by the company and the rest are the witnesses own tools. He estimates their value to be in excess of \$1,000.

With respect other duties in the facility, the record reveals that at times maintenance technicians perform such tasks as replacing light bulbs and assisting in cleaning the building. Maintenance technicians work all 4 shifts of the plant operation.

Although not set forth in great detail, the record reveals that the Employer's engineering technicians deal with more complex repair problems not handled by the maintenance technicians. Outside contractors deal with extensive problems on the die cast machines. The record does not indicate how often the Employer uses outside contractors.

Jim Hixson testified that Russell Martin's duties as a maintenance technician are on a skill level comparable to engineering technicians. Martin, a 10-year employee, has an extensive array of experience with the die cast machines. For some time period up until September of 2001, Martin was an acknowledged supervisor in the maintenance department. The Employer demoted Martin as it was believed his supervisory skills were not commensurate with the Employer's expectations. Martin remains a salaried employee.⁶

Martin works first shift. He assists maintenance technicians with more complex problems on the die cast machines. He works on projects such as installing components and upgrades on

the machines. Other maintenance technicians have worked with him on some of these upgrades. At times, Martin works out of an office utilizing a computer. The record reveals that he also developed a device known as a Martinizer. It is part of a handling system wherein parts are dropped down a chute in the manufacturing cells.

There is no record evidence to indicate that Russell Martin has exercised any supervisory authority since September of 2001. Nor is there any evidence that he participates on a decision-making level with regard to the Employer's policies or operations. He does not attend management meetings.⁷ Martin enjoys the same vacation, health and welfare benefits as other employees.⁸

The Employer's 4 tool crib employees are responsible for the distribution and inventory tracking of approximately 5,000 parts. Most of the parts are for the die cast machines. The tool crib room is located in the center of the maintenance department between the die casting department north and die casting department south. It is between the machine repair room and the die repair room. Tool crib employees work 1st, 2nd and 3rd shift. Tool crib employees work a 4th shift on the weekend only if production is in operation. Tool crib employees earn hourly wages similar to the maintenance technician classification B.⁹ Maintenance technicians have direct access to the tool crib area.

⁶ Martin earns proximately \$6.00 more per hour than the highest paid maintenance technician. The Employer attributes this to his seniority and his higher level of skill and experience. Maintenance technician wages range from \$16.75 per hour to \$21.07 per hour.

⁷ Jim Hixson testified that he meets daily with Martin and the first and third shift maintenance technician leadmen to review any problems that occurred on the shifts and to address what needs to be done. Hixson's testimony does not establish that Martin exercises supervisory authority over the maintenance technicians.

⁸ Due to his status as a salaried employee, he does not share the same pension or overtime benefits as other hourly employees in the maintenance department. He does qualify for overtime, however, not on the same basis as the other employees. As with the other maintenance department employees, Martin is supervised by Jim Hixson. While he is more experienced, his skills are similar to the engineering technicians and to some degree the maintenance technician classification A.

⁹ Tool crib employees wage range is \$16.09 to \$18.97 per hour. The wage range for the maintenance technician B classification is \$16.75 to \$19.15 per hour.

After a particular part is removed from the tool crib, the tool crib employees deduct the part from the computer inventory system. Tool crib employees (also known as maintenance clerks) receive training on inventory software. Tool crib employees also keep track of office supply inventory. Some cleaning supplies are also stored in the tool crib. Tool crib employees do not fill in for maintenance technicians. Tool crib employees do not work on the production floor or in the machine repair room. On occasion, such as a vacation, a maintenance technician has worked in the tool crib. There is no indication from the record that this done on a regular basis.

Maintenance technician Keith Acierno testified that he retrieves parts from the tool crib on his own. He does this because he believes that the tool crib employees cannot find the part as quickly as he is able to locate the needed part. Maintenance technician Ray Deluppo testified that approximately 90% of the time he retrieves the part that he needs. He signs the part out in order for the tool crib to be able to track the inventory information in the computer. Deluppo testified that he retrieves his own parts because it was more efficient and a quicker way to keep machines up and running rather than waiting for the attendant to retrieve the part.

The Employer employs approximately 7 facility maintenance employees. They work first shift. The Employer places high value on the cleanliness of the facility. The facility maintenance employees are responsible for plant cleanliness. Their duties include mopping floors, cleaning bathrooms, painting and sheet rock repair. The record revealed that the facility maintenance employees spend approximately 4-6 hours per day cleaning the floors and the outside of the die cast machines. Jim Hixson testified that if any cleaning needs to be done on the off shifts, the maintenance technicians or production operators do the cleaning. He provided no specific testimony as to how often maintenance technicians perform cleaning tasks. The

facility maintenance employees operate floor scrubbers. They are also responsible for other finishing processes to the floor. They use mops and brooms to perform their cleaning tasks.¹⁰ The record also reveals that the facility maintenance employees use a sky lift to scrub walls.

The Employer urges that functional integration between maintenance technicians and facility maintenance employees is illustrated by the fact that facility maintenance employees are involved in cleaning hydraulic spills near die cast machines. While the maintenance technician works on repairing the leak, the facility maintenance employee cleans the spill. Maintenance technician Keith Acierno testified that machine operators usually clean hydraulic leaks. He said that the facility maintenance employees assist in cleaning such a spill only if it is extreme. He also testified that facility maintenance employees primarily mop and sweep the floors.

Facility maintenance employees do not possess the skills needed to fill in for maintenance technicians. Facility maintenance employees earn \$9.50 per hour to \$14.44 per hour as compared with maintenance technicians' hourly wages of \$16.75 to \$21.07.

Donald Mitchell, the Employer's Director of Manufacturing, testified that in the past a facility maintenance employee bid on a maintenance technician position but provided no further details. There is no record evidence to indicate that any facility maintenance employee who has bid on a maintenance technician position won the bid. The record reveals that the maintenance technicians do not operate floor scrubbers or otherwise engage in any significant cleaning duties. Mitchell could not recall a time when a maintenance technician A, B or C performed facility maintenance employees' duties such as sheet rock repair. Nor could Mitchell recall any time

¹⁰ The Employer asserts that facility maintenance employees also steam clean the die cast machines. Union witnesses testified that this is now done by technicians on the preventative maintenance shift as there were problems with facility maintenance employees performing the task. The record does not specify how often the die cast machines are steam cleaned.

when there was interchange of duties between the facility maintenance employees and the maintenance technicians.

With regard to working conditions, maintenance technicians, tool crib employees and facility maintenance employees share similar benefits such as vacations, health insurance, overtime and pensions.¹¹ These employees share a locker room, lunch room and punch the same time clock. They are all supervised by Jim Hixson. Seniority operates the same for all classifications with the exception of what is known as the 4-year rule in the maintenance technician department. In the instance where an employee, such as a machine operator, bids into a maintenance technician entry-level position, that employee is not able to use plant-wide seniority over other maintenance department employees for shift preference. After a period of 4 years, the employee regains their plant-wide seniority. The purpose of the rule is to prevent a newly transferred employee with higher plant seniority from exercising shift preference over another employee with more department seniority.

Analysis

Scope of the Unit

In assessing questions of unit composition, I am guided by the principle that there is nothing in the statute that requires a petitioner to seek the ultimate or most appropriate unit. The Act only requires that the petitioner seek an appropriate bargaining unit. **Overnite Transportation Co., 322 NLRB 723 (1996); Morand Bros. Beverage Co., 91 NLRB 409 (1950).** In determining the appropriate unit, the Board first considers whether the union's petition is appropriate. If it is determined that the petitioner seeks an inappropriate unit, then the employer's proposed unit is scrutinized. **PJ Dick Contracting, 290 NLRB 150 (1988).**

¹¹ The record reveals that maintenance lead technicians have some preference in overtime over other maintenance technicians.

Here, the Petitioner seeks a skilled craft unit consisting of maintenance technicians, maintenance technician leadmen and engineering technicians. The record reflects that the technicians within the proposed unit possess varying degrees of skill. What is also abundantly clear from the record is that the skills possessed by the technicians as a group are distinct and different from the skills exercised by tool crib employees and facility maintenance employees in the furtherance of their tasks. Maintenance technicians must possess a range of knowledge in electronics, mechanics, hydraulics and pneumatics. At the maintenance technician A level, this includes the ability to diagnose and read hydraulic or electrical schematics. Engineering technicians and Russell Martin are consulted in those instances where a maintenance technician A needs assistance to address the problem. Maintenance technicians are also involved in the rebuild of automated robotics that comprise the manufacturing cell.

The Employer urges in its brief that the maintenance technicians, tool crib employees and facility maintenance employees work together in order to ensure that the goals of the maintenance department are met in order to achieve maximum efficiency in its operations. The integration of job tasks/skills of maintenance technicians, tool crib employees and facility maintenance employees does not exist to the requisite degree for me to find that the unit sought by Petitioner is inappropriate. Integration of functionality of duties cannot preclude a separate craft bargaining unit unless the integration results in such a degree of fusion of functional skills and working conditions of those in the asserted craft group and others outside it to obliterate any meaningful lines of separate craft identity. **E.I. Dupont & Co., 162 NLRB 413 (1996)**. There is no meaningful overlap of duties between maintenance technicians and tool crib employees, and maintenance technicians and facility maintenance employees. Although these classifications

share the common goal of optimum efficiency of operations, the means by which they achieve that end are distinctly different.

Other factors that are considered in addition to the degree of functional inter-relationship in unit considerations are differences in wages or methods of compensation, differences in hours of work, employment benefits, commonality of supervision, the degree of similarity of training qualifications and skills, frequency of contact among employees, the degree of employee interchange and the history of bargaining. **Kalamazoo Paper Box Corp., 136 NLRB 134 (1962).**

The record reflects a limited degree of interchange among employees. On occasion, maintenance technicians have filled in for tool crib employees. The record also revealed that on occasion, facility maintenance employees have filled in for tool crib employees. The record does not reveal any natural job progression from facility maintenance employee to tool crib employee and ultimately to maintenance technician. While the Employer does not require a formal apprenticeship training program, training pursued by maintenance technicians varies significantly from the training that the tool crib employees receive in order to operate the software computer for inventory. The fact that the Employer does not have formal apprenticeship program requirement does not negate the separate craft status of the maintenance technician employees. **Burns & Roe Services Corp., 313 NLRB 1307 (1994).** Skilled craft units also typically include helpers and apprentices comparable to the maintenance technician B and C positions. Id. at 1308.

A craft unit is one consisting of a distinct and homogeneous group of skilled craftsmen who, with their helpers and apprentices, are primarily engaged in tasks which are not performed by other employees and require the use of substantial skills and tools and equipment. In the

instant case, the knowledge required by the maintenance technicians to address the various issues arising with machine repair and the array of tools utilized to assist in that process are vastly different from the computer software used by the tool crib employees to keep track of inventory or the floor scrubbers mops, brooms and paint ladders utilized by the facility maintenance employees. Under the circumstances of this case, I find the petitioned-for unit is an appropriate craft unit. **Burns & Roe, supra.**

In support of its argument that the mechanical technicians do not warrant a separate unit, the Employer relies on **Phoenix Resort Corporation, 308 NLRB 826 (1992).** There the union sought a unit comprised solely of the employer's golf course maintenance employees. The employer argued that the petitioned unit was too limited in scope and must include landscape maintenance as well as the golf course maintenance employees. The job duties shared by the landscape and gold course maintenance employees were very similar. The golf course maintenance employees were responsible for the care and upkeep of the golf course grounds which included maintaining grass, landscape elements of the golf course, irrigation and fertilization. The landscape employees provided for the care and upkeep of the landscape of other parts of the golf course. Their duties also included upkeep of the grounds by fertilization and maintaining the grass. Both classifications of employees use similar equipment such as weed eaters, push mowers, riding mowers and tractors in order to accomplish their respective tasks.

Most importantly, the record revealed in that case that the two classifications of employees had a high degree of overlap in job functions and skills. The two groups of employees worked jointly on a drainage alteration project as well as maintenance of the golf course and adjoining landscape. When there were large functions at the golf course, the two

groups worked together without retaining discreet lines of duties. The similarities in skills and equipment as well as the high degree of overlap present in the Board's decision in **Phoenix Resort Corporation** is appreciably different from the facts in the present record.

A case closer to the facts in the instant matter is presented in the Board's decision in **Macy's West, Inc., 327 NLRB 1222 (1999)**. In that case, the Board affirmed the Regional Director's finding that a separate unit of maintenance engineers was appropriate for purposes of bargaining. The other job classifications at the employer's stores included receiving and dock employees, cashier and gift wrap, "visuals" and loss prevention. The employer took the position that the only appropriate unit was a wall-to-wall unit. The maintenance engineers were unlicensed and non-certified in the areas of electricity, plumbing and HVAC equipment. Despite the fact that they were unlicensed and non-certified, at least 2/3 of their work involved mechanical, electrical and plumbing skills. The mechanical skills required the use of a number of tools that were used exclusively by the maintenance engineers. Their wages were higher than the other classifications of store employees. One-third of their work involved what was known as lamping or changing light bulbs. The maintenance engineers did not interchange with or perform the duties of the other sales and support employees. Nor did these employees perform the tasks of maintenance engineers. While the Board recognized that all groups of employees shared some common benefits and working conditions, the maintenance engineers constituted a distinct and appropriate unit for purposes of collective bargaining.¹²

The Board's decision in **Harrah's Illinois Corp., 319 NLRB 749 (1995)**, serves as an illustration where job integration or overlap did negate the separate identity of the maintenance employees. In **Harrah's**, the employer argued that the maintenance only unit was inappropriate

as it should include employees in the environmental services and maintenance department. The maintenance employees had varying types of skills. One had electrical skills, one was a licensed plumber, three employees were skilled in cabinetry and two were skilled painters. The maintenance employees overall duties were to build, repair and maintain the facility. This included building gaming tables, and tote boxes, changing light bulbs, repairing and installing lighting fixtures, building and installing cabinets, cleaning gaming tables, cleaning and balancing roulette wheels, and troubleshooting areas in heating, air conditioning, ventilation, installing plumbing and painting the facility.

The other job classifications that the employer wished to include in the unit were referred to as cleaners and heavy-duty cleaners. Cleaning employees performed general housekeeping tasks while the heavy-duty cleaners used power equipment such as vacuums and carpet cleaners. In addition, the heavy duty cleaners repaired small machines, mowed lawns and assisted maintenance employees by bringing them equipment and supplies. Many of the maintenance employees spent most of their time performing jobs that did not utilize their skills. During the summer, the maintenance employees worked with the heavy-duty employees in performing landscaping work. Maintenance employees also used heavy-duty cleaning equipment such as power vacuums when required and were expected to contribute to the overall cleanliness of the premises.

The Board concluded that based on the overlap of duties, job interaction of employees and traditional community of interest criteria, the maintenance employees did not constitute a distinct group. A comparison of these cases to the instant matter underscores the fact that the unit sought by the Petitioner does constitute a distinct and homogeneous group of skilled

¹² There was evidence that dock workers, like maintenance engineers, repaired shelves and built walls. When maintenance engineers were unavailable, handymen performed painting and some minor maintenance work. This

employees and I find that the Petitioner's unit is an appropriate unit for purposes of collective bargaining.

Unit Composition

A. Russell Martin

The Petitioner takes the position that Martin should be excluded from the unit because he is a supervisor or managerial employee and does not share a community of interest with the employees sought by the Petitioner. The Employer maintains that Martin is not a supervisor or managerial employee and should be included in the bargaining unit.

Section 2(11) of the Act defines a supervisor as:

The term supervisor means any individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

The burden of proof is on the party asserting supervisory status. **NLRB v. Kentucky River Community Care, Inc., 121 S. Ct. 27 (2001).**

The Petitioner maintains that Martin exercises supervisory authority to direct skilled maintenance employees by use of independent judgment. The record does not support the assertion that Martin exercises independent judgment in directing the maintenance technicians. In **Kentucky River**, the Supreme Court noted the distinction between individuals who direct employees as statutory supervisors and employees who direct other employees discrete tasks. **121 S. Ct. sl. op. at 14.** At most, the record indicates that Martin acts in an advisory capacity if a maintenance technician runs into a situation that is beyond his level of ability. Employees who possess a higher level of skill due to years of experience do not rise to the level of supervisors

was not enough to negate the separate and distinct status of the maintenance engineering employees.

because they impart or share this knowledge with other employees. **Chicago Metallic Corp., 273 NLRB 1677 (1985), enfd. in relevant part 794 F.2d 527 (9th Cir. 1986).** The fact that Martin spends part of his time in an office or uses a cell phone, unlike other maintenance technicians, is at best a secondary indicia of supervisory status. It is well established that if an individual exhibits no primary indicia of supervisory authority the existence of some secondary indicia is not determinative. **General Security Services, Corp., 326 NLRB 312 (1998); Alois Box Co., Inc., 326 NLRB 1177 (1998).**

The Petitioner also asserts that Martin is involved in the formulation, determination and effectuation of management policy. There is no evidence of such authority in the record. The Petitioner also asserts that Martin utilized independent judgment in developing production improvement ideas. Although the Petitioner does not specify the exact nature of this claim, it is most likely referring to the Martinizer that Mr. Martin developed to assist in the manufacturing process.

Managerial employees have been defined as employees that have the authority to formulate, plan, determine or effectuate employer's policies by expressing and making operative the decisions of their employer as well as those who have discretion in the performance of their jobs independent of the employer's established policies. **Bell Aerospace, 219 NLRB 384 (1975).**

In **NLRB v. Yeshiva University, 444 U.S. 672 (1980)**, the Supreme Court defined managerial employees as those employees that represent management's interest by taking or recommending discretionary actions that effectively control or implement policy. Nothing in this record persuades me that Martin exercises such authority or has effective control or input

into the Employer's policies.¹³ The record demonstrates that Martin shares a sufficient community of interest in terms and conditions of employment to allow him to be included in the bargaining unit. To exclude Martin would leave unrepresented one maintenance technician from a group of maintenance technician employees who the Petitioner seeks to represent.

B. Maintenance Lead Technicians

I am guided by the principles outlined above in assessing whether the three maintenance technician leadmen are supervisors within the meaning of Section 2(11) of the Act. The Employer offered general and conclusory witness testimony in its post-hearing brief to support its position that the maintenance lead persons provide responsible direction to employees through the exercise of independent judgment.

In support of this position the Employer notes the testimony of Ray Deluppo. On cross examination Deluppo agreed with the Employer's attorney that a maintenance technician leadman directs employees if the employees are not able to work independently. No specific examples are provided to illustrate the manner in which maintenance technician lead persons direct the work force.

On the contrary, the record reveals that the maintenance leads do not exercise independent judgment in assigning tasks. Maintenance Manager Jim Hixson testified that at the beginning of each day he meets with a lead person from the 3rd and 1st shifts along with Russell Martin to discuss problems that may have occurred overnight and the jobs to be accomplished during the day. Hixson testified that he is the one that gives the assignments to the lead persons. In turn, the lead people ensure that the maintenance technicians on their shift perform these predetermined duties. It appears from the record that Hixson, not the lead technicians, exercise independent judgment in determining the work assignments of the maintenance technicians.

¹³ The record reveals that Martin does not attend management meetings.

Where an employee merely serves as a conduit for management when giving employees work assignments, there is no evidence of supervisory status. **Alois Box Co., 326 NLRB 1177 (1998).** Like the maintenance technicians, the leadmen also work on the die cast machines. There is no other record evidence to support the Employer's contention that the maintenance lead persons responsibly direct or possess any other supervisory indicia status pursuant to Section 2(11) of the Act. Accordingly, maintenance technician Russell Martin and the maintenance technician leadmen are included in the 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. 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 **TEAMSTERS LOCAL UNION NO. 507, a/w INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO.**

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 April 4, 2002.

Dated at Cleveland, Ohio this 21st day of March 2002.

/s/ Frederick J. Calatrello

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

440-1760-1000