

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SEVENTEENTH REGION

Joplin, Missouri

DOANE PET CARE

Employer

and

Case 17-RC-12202

BAKERY, CONFECTIONERY, TOBACCO WORKERS & GRAIN MILLERS
INTERNATIONAL UNION, LOCAL 218

Petitioner

DECISION AND DIRECTION OF ELECTION

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

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

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

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. 1/
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
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: 2/

All full-time and regular part-time quality assurance technicians (quality control employees), excluding office clerical employees, truck drivers, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the voting group 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 voting group 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. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who

- 1/ The Employer, a corporation with an office and place of business in Joplin, Missouri, is engaged in the business of manufacturing pet food. During the previous 12 months, a representative period of time, the Employer, in the course and conduct of its operations described above, sold and shipped goods valued in excess of \$50,000 directly to points located outside the State of Missouri.
- 2/ The Petitioner requests a self-determination election in a voting group of full-time and regular part-time quality control employees, whom the Employer calls quality assurance technicians.

ISSUE

The only issue is whether the petitioned-for voting group shares a community of interest with production and maintenance employees who are currently represented by the Petitioner. The Petitioner contends that quality assurance technicians share a sufficient community of interest with production and maintenance employees to warrant conducting a self-determination election to determine whether they wish to be represented and included in the established unit. The Employer, on the other hand, contends that a stand-alone unit of quality assurance technicians is the only appropriate unit. As discussed below, I find that the record establishes that a community of interest exists between the quality assurance technicians and production and maintenance employees sufficient to warrant a self-determination election.

BACKGROUND

The Employer manufactures pet food for customers including Wal-Mart, Iams, and Kal Kan. The Employer's operation is divided between dry pet food and biscuit treats. Regional Director Earl Clements oversees the Employer's biscuit operation. Plant Manager Mark Suiter is responsible for the Employer's dry pet food production.

The Employer employs approximately 220 employees at its Joplin facility, including approximately 186 production and maintenance employees. The Petitioner has represented the production and maintenance employees since approximately 1961. The parties recently negotiated a contract that became effective on February 1, 2003, and remains in effect until January 31, 2006.

QUALITY ASSURANCE TECHNICIANS

In the mid-1970's, the Employer implemented a quality assurance department. The Employer currently has a staff of six quality assurance technicians, although it is attempting to fill an additional two positions. The quality assurance employees historically have not been included in the production and maintenance bargaining unit. In fact, the two most recent collective-bargaining agreements specifically exclude quality control employees.

Quality assurance technicians' responsibilities extend throughout the Employer's entire manufacturing process. When ingredients arrive at the Employer's facility, quality assurance technicians are responsible for determining whether the ingredients meet the Employer's specifications. Quality assurance technicians communicate the results to bargaining unit employees who are responsible for unloading the ingredients. On an hourly basis during the extrusion or cooking process, quality assurance technicians obtain samples of products to perform protein, fat, and moisture analyses. Quality assurance technicians also monitor finished product by testing bag weights and seals and by performing visual inspections.

Quality assurance technicians perform a significant portion of their tests in the quality control lab, which is approximately 50 feet from the extruder operators and is located near the area that houses the Employer's office clerical employees. Nevertheless, quality assurance technicians

spend approximately 70 to 75 percent of their time on the production floor gathering samples and performing visual and less complex inspections that do not require them to utilize the lab.

Upon determining that a product does not conform to the Employer's specifications, quality assurance technicians are responsible for placing hold stickers on the nonconforming product. Quality assurance technicians then inform the production supervisor and quality assurance supervisor of the problem to enable the supervisors and plant managers to determine the appropriate reaction. Quality assurance technicians also frequently communicate with production employees such as extruder operators to keep them apprised of test results.

The Employer does not list a college degree or specialized training as requirements for its quality assurance positions. Quality assurance technicians, however, are required to pass an exam and receive on-the-job training that typically lasts four weeks.

Quality Assurance Coordinator Ed Steier heads the quality assurance department. Steier reports directly to Regional Director Clements. Quality Assurance Supervisor Rusty Cramer reports to Quality Assurance Coordinator Steier, and supervises the quality assurance technicians and six bargaining unit maintenance employees. The parties stipulated, and I find, that Quality Assurance Supervisor Rusty Cramer and Quality Assurance Ed Steier possess authority to hire, fire, transfer, suspend, lay off, recall, promote, assign, and discipline employees, or effectively to recommend such action utilizing independent judgment in the interest of the Employer, and are supervisors within the meaning of Section 2(11) of the Act. Accordingly, I will exclude Quality Assurance Supervisor Cramer and Quality Assurance Coordinator Steier from the voting group.

ANALYSIS

I find that the quality assurance technicians share a sufficient community of interest with the production and maintenance employees to warrant the conducting of a self-determination

election to determine whether they desire representation by the Petitioner and inclusion in the established production and maintenance unit. As discussed below, quality assurance technicians and production and maintenance employees share similar terms and conditions of employment and work in a functionally integrated environment, requiring frequent job-related contact.

The Employer contends that the lack of common supervision among quality assurance technicians and production employees weighs against including them in the same unit. As noted by the Employer, Quality Assurance Supervisor Cramer supervises only six maintenance employees in addition to the six quality assurance technicians. Moreover, quality assurance technicians are not supervised in any manner by the production supervisors who supervise the bargaining unit production employees. Nevertheless, this demonstrated lack of common supervision does not warrant excluding quality assurance technicians from the existing unit when, as here, they have frequent work-related contact and share other terms and conditions of employment. See, e.g., *Lorillard, a Division of Loews Theatres*, 219 NLRB 590, 590 (1975).

Although quality assurance employees perform many of their tests in the quality control lab, they spend a considerable amount of time (70 to 75 percent) working alongside represented production and maintenance employees. See *Keller Crescent Co.*, 326 NLRB 1158, 1158-59 (1998) (finding community of interest based on frequent job contact and similar pay and working conditions). Cf. *Beatrice Foods*, 222 NLRB 883 (1976); *Arkansas Grain Corp.*, 163 NLRB 625 (1967) (finding no community of interest where quality control employees worked in separate buildings under separate supervision and had little or no contact with other employees). Quality assurance technicians do not perform production and maintenance work. However, the record reveals that they are an integral part of the production process. See *Amcar Division, ACF Industries*, 210 NLRB 605, 607 (1974). Quality assurance technicians routinely interact with

production and maintenance employees to ensure that the Employer produces quality products to meet its customers' standards. Quality assurance technicians discuss test results with operators, and operators inform quality assurance technicians when they suspect a production problem.

A comparison of production and maintenance employees' and quality assurance technicians' terms and conditions of employment also demonstrates a significant community of interest. Like production and maintenance employees, quality assurance technicians are compensated on an hourly basis. Although it is unclear precisely at what wage rate the Employer compensates its employees, the record reveals that quality assurance technicians' pay is commensurate with that of production and maintenance employees. Thus, Regional Director Clements testified that quality assurance technicians receive approximately the same wage as bargaining unit extruder operators. Quality assurance technicians and production and maintenance employees also enjoy the same health care benefits, share the same work hours, are subject to the same drug and alcohol policy, are required to wear safety shoes and glasses, and utilize the same break room. See *Keller Crescent*, 326 NLRB at 1159.

Quality assurance technicians' skills and training fail to establish a meaningful distinction from production and maintenance employees. Five current quality assurance technicians previously worked in the production and maintenance unit before becoming quality assurance technicians. Although the Employer does administer a standardized test to quality assurance technician applicants to evaluate their problem solving and organizational skills, it does not require quality assurance technicians to have prior quality control experience, specialized training, or a college degree.

I am not persuaded that potential conflicts which might arise because quality assurance technicians test production and maintenance employees' work, require excluding the quality

assurance technicians from the proposed unit. On the contrary, the Board generally finds that placing quality control employees in a production and maintenance unit does not create a conflict of interest. See, e.g., *Lundy Packing Company, Inc.*, 314 NLRB 1042, 1043 (1994).

Finally, the parties' bargaining history does not preclude the Petitioner from representing quality assurance technicians as a part of the production and maintenance unit. On the contrary, a self-determination election is the appropriate means to determine whether a group of historically unrepresented employees wish to be represented in an existing unit of employees with whom they share a community of interest. See, e.g., *Ziegler, Inc.*, 333 NLRB 949, 950 (2001); *Lorillard*, 219 NLRB at 590. As the Petitioner seeks to represent the quality assurance technicians in the existing bargaining unit and no other labor organization seeks to represent them, I find that it is appropriate to conduct an election in a voting group of quality assurance technicians. See *Lundy Packing Company*, 314 NLRB at 1043 (stating, "in representation proceedings, the unit sought by the petitioner is always a relevant consideration").

CONCLUSION

The record establishes that quality assurance technicians share a community of interest with the production and maintenance unit currently represented by the Petitioner. Accordingly, I shall direct a self-determination election under *Armour & Co.*, 40 NLRB 1333 (1942) and *The Globe Machine & Stamping Co.*, 3 NLRB 294 (1937) for the purpose of determining whether the Employer's quality assurance technicians wish to be represented by the Petitioner in the existing production and maintenance unit.

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