

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

EXPERIAN

Employer

and

INTERNATIONAL ASSOCIATION OF
MACHINISTS AND AEROSPACE WORKERS,
AFL-CIO

Petitioner

Case 18-RC-17195

DECISION AND DIRECTION OF ELECTION

Petitioner seeks a unit including full-time and part-time skilled craft employees, including building maintenance, machinists, and mechanics, who are employed at the Employer's Mt. Pleasant, Iowa facilities. I will refer to this as the maintenance unit. Petitioner would exclude from the unit production employees, office clerical employees, professional employees, managerial employees, guards and supervisors as defined in the Act. The maintenance unit would include about 50 employees.

The Employer contends that a unit limited to maintenance employees is not appropriate, and that the minimal appropriate unit must include production employees. The production group that the Employer would add to the unit includes almost 400 employees, primarily machine operators, warehouse employees, and forklift operators. After reviewing the record, I conclude the maintenance unit is not appropriate.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding I find:

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

2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.¹

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 first section of this decision will summarize the record regarding the Employer's operation and organization. I will then describe the job duties exercised, and skills, training and experience required of, the various job classifications. Next, I will review the record on transfers and interchange, as well as wages, benefits and other conditions of employment. Finally, I will explain my conclusion that the unit sought by Petitioner is inappropriate.

THE EMPLOYER'S OPERATION AND ORGANIZATION

The Employer operates a "letter shop." It prints and packages promotional advertising for mailing. Some material is wrapped in plastic and some packaged in paper wrapping or envelopes. It provides custom service, so different jobs require reconfiguration of the machinery to accommodate different inserts and different packaging.

¹ The Employer, Experian, with offices and place of business in Mt. Pleasant, Iowa is engaged in the operation of a letter shop. During the past twelve months, a representative period, the Employer has sold and shipped goods and materials valued in excess of \$50,000.00 from its Mt. Pleasant, Iowa facilities directly to points outside the State of Iowa.

The Employer occupies two buildings (“main” and “west”) in Mt. Pleasant, Iowa, about two-and-a-half miles apart. Plant Manager Brian Bomberger is responsible for both buildings. The west building is cleaned to food-grade specification and packages samples of various food products among other things.

There are no departments per se, but the Employer divides its floor plan into “areas.” One area is a line of machinery dedicated to a single major client, Skill Path. Other areas are dedicated to a particular general packaging configuration, like printed material in a poly bag, that can be adjusted for various sizes and configurations depending on the job. The Employer operates three shifts, the first 7 a.m. to 3 p.m., the second 3 p.m. to 11 p.m., and the third 11 p.m. to 7 a.m.

The main building includes a warehouse, supervised by Warehouse Manager Tammy Kramer, with about 47 employees. They include three drivers, who need a commercial drivers' license to transport materials and supplies between the Employer's two buildings. When not driving, the drivers do general warehouse tasks. Kramer also supervises 25 forklift operators and 18 warehouse clerks. The Union does not seek to represent those employees. Finally, Kramer supervises one full-time forklift maintenance employee, whom the Union would include in its proposed maintenance unit.

IT/QC/PF Manager George Johnson supervises three IT employees and three quality assurance coordinators. There is no testimony particular to their duties and responsibilities. The Union does not seek the IT or QC employees in its unit. Johnson also supervises five facilities maintenance employees and two mechanics, whom the Union does seek to represent.

Senior Production Managers Dave Beal and Sue Vantiger report to Bomberger, divide the areas between them, and supervise all three shifts. Each area employs a number of machine

operators and material handlers on each shift, and is directly supervised by a production supervisor on each shift. Beal is responsible for poly, paper and high-speed areas, and Vantiger is responsible for Skill Path, addressing, imaging, and specialty areas.

The Skill Path area has its own Production Manager, Connie Casteel, whose position is between Beal and Vantiger and the production supervisors on the organizational chart. This area has about 25 operators and material handlers. This area also includes three dedicated mechanics, who report directly to Casteel, not the production supervisors. The Employer calls the machine operators in this area "owner operators," a classification with a higher wage grade than the more general classification of operator.

The high speed area also employs owner operators, six dedicated mechanics, and has a dedicated supervisor, Kevin Taylor, called Equipment Specialist Consultant. The other 40-odd mechanics employed by the Employer share responsibility for the Employer's other areas, and report directly to a shift production manager on each shift, who are between the production supervisors and Beal and Vantiger on the organizational chart.

The Employer employs one titled "Maintenance Supervisor," Darrell Vaughn. Vaughn works only the second shift. The other two shifts employ "lead" mechanics. There is no particular evidence on what would distinguish Vaughn from the "lead" mechanics. From the parties' agreements on unit scope, however, I infer that Vaughn is a supervisor within the meaning of the Act and the lead mechanics are not. Whatever the strength of the maintenance supervisor's and lead mechanics' authority, its breadth is confined to the mechanics who work on areas other than Skill Path and high speed.

All four machinists are in a group with one parts clerk on the Employer's organizational chart. These five employees report directly to Beal and Vantiger. The parts clerk is responsible

for ordering and inventorying parts for the machinery, apparently all over the plant, not just for the machinists.

FUNCTIONS AND SKILLS

The area mechanics' principal function is set-ups, which occupy up to 80 percent of some maintenance employees' time when the plant is humming with back orders. This involves setting up and connecting the various machines in an area and setting them for various sizes and types of paper and packaging. They also normally run up to 500 pieces to test their set-up. Owner operators, in the high speed and Skill Path areas, do their own set-ups. Other operators may be pressed into service full-time doing set-ups. When they do, they are called "pull mechanic" and are paid a mechanics' rate for that work.

Other than set-ups, the mechanics do preventive maintenance and overhauls of all the production machinery on a set schedule. They also respond to breakdowns. If an operator has a problem, he or she turns on a light. A green light summons a mechanic, a blue light summons a supervisor, and an amber light summons a material handler to either bring more supplies or cart off a finished product.

The machinists spend the bulk of their time doing set-ups and repairs and producing samples, much like the other mechanics. They also work in a designated shop area producing custom tools and parts, especially for aging equipment for which parts are not available in the open market anymore, although Beal testified that working in the machine shop actually occupies "very little" of the machinists' time. Beal considers the machinists the most skilled of all the maintenance employees.

The facilities maintenance employees are responsible for cleaning the building and rest rooms, changing light bulbs, painting, etc. Johnson's two mechanics are responsible for the

building – minor roofing, HVAC, the sprinkler and alarm system, and the vacuum and compressor systems. They both work the day shift. Operators may be pressed into service for the janitorial and painting tasks, but not for any real building mechanical work.

The Employer requires no specific degrees, licenses, apprenticeship, training or experience for any mechanic, machinist, or maintenance job. Beal estimated that 60 percent of the maintenance employees started with the Employer in production jobs. Two of the four machinists were previously employed in production jobs. Openings in any job are posted at both buildings for internal applicants. There is no evidence that internal applicants are given any special consideration for maintenance jobs.

Mechanics attend manufacturers' training programs outside the plant. One mechanic testified in particular as to recent week-long training he attended in Illinois and Florida, but there is no quantification regarding this kind of training. The Employer also pays for training courses at a local community college. There is no evidence that operators have participated in any outside training yet, although the Employer plans to send operators, not mechanics, to a manufacturer-sponsored training on maintenance of its Océ printers. The Employer offered printed manuals for several machines that it described as the basis for a "tabletop training program" for operators, which instructs them in certain set-up and troubleshooting tasks. Some machine maintenance is beyond the capability of the Employer's maintenance staff, for which the Employer uses contractors.

Production employees and maintenance employees all have a tool box, paid for by the Employer. Maintenance employees have substantially more tools and bigger boxes. One maintenance employee, one of the building mechanics, testified that his tool kit was worth between \$8000 and \$10,000. The Employer offered an inventory and receipt showing a

Specialty Area operator's tool kit is worth \$51. Whether those are representative of either maintenance employees' or production employees' toolboxes is not clear.

TRANSFERS; WAGES AND OTHER CONDITIONS OF EMPLOYMENT

During the past twelve months, there have been no transfers into or out of the maintenance group. In approximately two years before that, back to August 2000, two mechanics transferred to production jobs and remain there. They transferred into advanced operator classifications that resulted in pay raises. In that same period, three other mechanics transferred to production jobs and then back to mechanic jobs. Two of them took a pay cut going from maintenance to production.

The facilities maintenance classification is the lowest paid classification of all, starting at \$8.25 per hour. Generally, the rest of the maintenance employees earn more than production employees, but there is overlap at the top of the production scale and the bottom of the mechanic scale. The bulk of the operators start at \$9 per hour in training, and advance to \$11 per hour as they get certified in additional tasks. Truck drivers and owner operators have a range of \$10.50 to \$13.13 per hour, and one highly skilled owner operator classification ranges from \$12 to \$15 per hour. The forklift mechanic and the largest mechanic classification earn \$12.65 to \$15.81; senior mechanics and machinists earn \$14.50 to \$18.85; and lead mechanics earn \$15 to \$19.50 per hour.

There are apparently two bonus programs. One is based on the efficiency of a single machine, for which only machine operators can qualify. One is based on the efficiency and production of an entire shift, for which maintenance employees and some production employees can qualify.

All employees share the same break rooms and general benefit package. No employees wear a uniform or any other distinctive insignia. Operators, material handlers, and warehouse employees have to serve a probationary period before they get any fringe benefits. One maintenance employee testified that he was classified as a "full service employee" and got benefits immediately upon hire without serving a probationary period, but it is not clear that all maintenance employees are similarly treated.

In slack periods, operators can be dismissed temporarily on "LOW" status (lack of work). A Skill Path mechanic testified that when he does a three to six day overhaul of the machinery, the operators are sent home on LOW status. The only operator to testify, who works in a different area, said he has never been sent home LOW during maintenance, only during slow periods, and that he has stayed and helped the mechanic during some days-long overhauls.

PETITIONER'S UNIT IS INAPPROPRIATE

Petitioner describes its proposed maintenance unit as a craft unit. "A craft unit is one consisting of a distinct and homogeneous group of skilled journeymen craftsmen, who, together with helpers or apprentices, are primarily engaged in the performance of tasks which are not performed by other employees and which require the use of substantial craft skills and specialized tools and equipment." Burns & Roe Services Corp., 313 NLRB 1307, 1308 (1994). See also Metropolitan Opera Assn., 327 NLRB 750, 754 (1999) (reviewing traditional craft definition). In the absence of any licenses, apprenticeship, certifications, or required experience, however, and particularly in light of the Petitioner's inclusion of unskilled facilities maintenance employees, it is clear the maintenance employees do not constitute a "craft" as that term is used in Section 9 of the Act. American Potash & Chemical Corporation, 107 NLRB 1418, 1423-1424 (1954).

A separate maintenance department unit may still be appropriate even in the absence of customary craft status, however, “where the petitioned-for maintenance employees have the requisite community of interest.” Capri-Sun, Inc., 330 NLRB 1124 (2000). This community of interest depends on such factors as “mutuality of interests in wages, hours, and other working conditions; commonality of supervision; degree of skill and common functions; frequency of contact and interchange with other employees; and functional integration.” Id.

Basically, I conclude that a maintenance department unit is not appropriate because there is no identifiable or homogeneous maintenance department. Thus, the proposed maintenance unit is not distinguished by common supervision at any level that is distinct from the production group. Petitioner seeks to represent employees scattered throughout the Employer’s operations and administrative hierarchy, employees who are scattered among multiple supervisors and who share direct supervision with production employees. Compare Ore-Ida Foods, Inc., 313 NLRB 1016, 1019 (1994), *enfd.* 66 F.3d 328 (7th Cir. 1995).

I also find the proposed maintenance unit not sufficiently distinguished by homogeneous skills. Again, this is particularly apparent as to Petitioner’s proposed inclusion of facilities maintenance employees, who possess no apparent unique skills and who exclusively occupy the Employer’s lowest pay grade. See Harrah’s Illinois Corp., 319 NLRB 749, 750-751 (1995). Some mechanics and maintenance employees possess and exercise some skills not possessed or exercised by the production employees, and most mechanics and maintenance employees are paid more than most of the production employees. However, there are no minimum requirements for any maintenance jobs; there are no standard qualifications for any maintenance jobs; and there is no common training program for maintenance employees.

Although Petitioner presented evidence that some maintenance employees take courses outside the Employer's facility from manufacturers and at a local community college, there is no evidence that such training is generally required or expected of all maintenance employees. Although there have been only a few transfers in the last three years, most maintenance employees started in the production ranks, and all of them learned exclusively on the job. I recognize that permanent interchange is not as important as temporary interchange in evaluating community of interest (Ore-Ida Foods, 313 NLRB at 1020 n.4), but this factor appears even more important to analysis of the skill level possessed by the proposed unit – it shows that there is nothing unique required of maintenance employees that production employees as a group appear to lack.

In addition, it appears that the primary duty of the maintenance employees, set-ups, is not unique to the classification. Owner operators perform set-ups as a routine part of their jobs. Other operators perform set-ups as a matter of temporary interchange, achieving the temporary classification of “pull mechanic” and a pay increment for doing it. Set-up is also integral to the production function. There are no substantial distinctions around a maintenance unit in terms of uniforms, benefits or any other conditions of employment. In sum, I find nothing substantial that all employees in Petitioner's proposed unit possess in common that distinguishes them from the production employees. See Harrah's Illinois Corp., 319 NLRB 749 (1995); Peterson/Puritan, Inc., 240 NLRB 1051 (1979).

6. The following employees of the Employer constitute a unit appropriate² for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

² Although the unit found appropriate herein is broader in scope than that sought by Petitioner, I shall not dismiss the petition inasmuch as Petitioner has not disclaimed interest in the broader unit. In these circumstances, in accord with established Board policy, I shall direct an election in the appropriate unit conditioned upon the demonstration by Petitioner within fourteen (14) days from the issuance hereof that it has made an adequate

All full-time and regular part-time production and maintenance and warehouse employees employed by the Employer at its Mt. Pleasant, Iowa facilities; excluding office clerical employees, professional and managerial employees, and guards and supervisors as defined in the National Labor Relations Act, as amended.

DIRECTION OF ELECTION³

An election by secret ballot will be conducted by the undersigned among the employees in the units 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 units who were employed during the payroll period ending immediately preceding the date below, including employees who did not work during that period because they were ill, on vacation or temporarily laid off. 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 have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are persons who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement

showing of interest in the broader unit. In the event Petitioner does not wish to participate in the election in the unit found appropriate herein, I shall permit it to withdraw without prejudice upon notice to the Regional Director of Region 18 within fourteen (14) days from the date of issuance of this Decision or, if applicable, from the date the Board denies any request for review of the unit-scope findings in this Decision. Independent Linen Service Company of the Mississippi, 122 NLRB 1002, 1005 (1959).

³ Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 - 14th Street, N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by **December 3, 2003**.

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.⁴

Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by International Association of Machinists and Aerospace Workers, AFL-CIO.

Signed at Minneapolis, Minnesota, this 19th day of November, 2003.

/s/ Ronald M. Sharp

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⁴ In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. Excelsior Underwear Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Co., 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the full names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 18 within seven (7) days of the date of this Decision and Direction of Election. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. This list may initially be used by me to assist in determining an adequate showing of interest. I shall, in turn, make the list available to all parties to the election, only after I shall have determined that an adequate showing of interest among the employees in the unit found appropriate has been established. In order to be timely filed, such list must be received in the Minneapolis Regional Office, Suite 790, 330 South Second Avenue, Minneapolis, MN 55401-2221, on or before close of business **November 26, 2003**. No extension of time to file this list shall be granted nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission. Since the list is to be made available to all parties to the election, please furnish a total of two copies, unless the list is submitted by facsimile, in which case no copies need be submitted. To speed preliminary checking and the voting process itself, the names should be alphabetized (overall or by department, etc.). If you have any questions, please contact the Minneapolis Regional Office.