

Orkin Exterminating Company, Inc.¹ and International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local No. 697, Petitioner. Case 6-RC-8981

September 30, 1981

DECISION AND ORDER

**BY MEMBERS FANNING, JENKINS, AND
ZIMMERMAN**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Ronald J. Andrykovitch. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, Series 8, as amended, by direction of the Regional Director for Region 6, the case was transferred to the Board for decision. Thereafter, the Employer filed a brief with the Board which has been duly considered.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.²

Upon the entire record in this case, the Board finds:

1. The parties stipulated that, during the past 12-month period, the Employer did a gross volume of business in excess of \$500,000 and purchased and received goods valued in excess of \$50,000 directly from sources located outside West Virginia for use at its Triadelphia, West Virginia, facility. We find, therefore, that the Employer is engaged in commerce within the meaning of the Act and that it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The parties stipulated, and we find, that the Petitioner is a labor organization as defined in the Act and that it claims to represent certain employees of the Employer.

3. Questions affecting commerce exist concerning the representation of certain employees of the Employer within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act.

4. The Employer is engaged in the business of providing pest and termite control service to residential and commercial customers. Its principal

office is located in Atlanta, Georgia, and other facilities are located in approximately 40 States.

These facilities are grouped for administrative purposes into six regions. Each region is composed of several districts. The proceedings herein involve only the West Virginia district. This district contains branch offices in Beckley, Charleston, Clarksburg, Huntington, Parkersburg, and Triadelphia, West Virginia, and Pittsburgh, Pennsylvania.

The Petitioner seeks to represent a unit of seven pest and termite control technicians who operate out of the Triadelphia branch office. The Employer contends that this unit is inappropriate for collective-bargaining purposes. It maintains that the only appropriate unit is a districtwide unit, encompassing all pest and termite control technicians at the seven branch offices comprising the West Virginia district.

When considering a multifacility operation, the well-established Board policy is to find a single-facility unit presumptively appropriate. This presumption can only be overcome by a showing of functional integration so substantial as to negate the separate identity of the single-facility unit. In making findings on this issue, the Board looks to such factors as central control over daily operations and labor relations, skills and functions of the employees, general working conditions, bargaining history, employee interchange, and the geographical location of the facilities in relation to each other.³ Based on the facts in the record of this case, we hold that the presumption favoring single-facility units has been overcome.

Control over the daily operations and labor relations in the West Virginia district is highly centralized. The district manager, Sheevy, has overall responsibility for the district, including revenues and profits, employee training, and customer relations. Sheevy has authority to open new branch offices, to close existing ones, and to negotiate leases. He approves all purchases and requisitions by branch offices and all transfers of trucks, equipment, and pesticides. He sets the amount that customers throughout the district are charged. In contrast, the main functions of the branch manager, Jarrell, are to gather data about the branch's operations, to prepare various financial and operational reports, and to assure that the branch employees are trained adequately.

Sheevy is extensively involved in the daily operations of the branch offices. He spends approximately 75 percent of his time at the branches, where he conducts training sessions for the techni-

¹ The name of the Employer appears as amended at the hearing.

² The Employer's motion to permit oral argument is hereby denied as, in our opinion, the record and brief in this case adequately present the issues and positions of all the parties.

³ *Levitz Furniture Corporation*, 223 NLRB 522 (1976); *Allegheny Pepsi-Cola Bottling Company*, 216 NLRB 616 (1975).

cians, goes out on the road to evaluate the technicians' work, and attends to administrative chores. He has approximately 2 to 10 daily telephone conversations with each branch manager during which they discuss employee productivity, revenue, expenses, profits, training, and company policies. When he is in the district office he spends approximately 6 to 7 hours per day on the telephone talking with branch managers, and when he is in a branch office he so spends approximately 3 hours per day. In addition, he receives a variety of daily, weekly, and monthly written reports from the branch offices—some 75 to 80 reports each month. These reports contain information concerning sales, each employee's productivity, and bank deposits.

Sheevy has broad authority over labor relations, while Jarrell's participation is very limited. Sheevy has the sole authority to promote, demote, and discharge employees, to grant wage increases, to schedule vacations, and to set working hours. Branch managers authorize overtime, particularly in the busy season, although they are actually required to secure the district manager's approval beforehand. Branch managers are similarly required to check with Sheevy before they authorize an employee to take time off. Sheevy can alter the routes that the technicians service, and he determines the number of accounts for which each technician is responsible. Branch managers, however, initially assign new accounts to the technicians. Sheevy issues disciplinary reports to employees for poor work performance such as low productivity, high cancellation rates, or too many delinquent accounts. Sometimes he directs the branch manager to write this disciplinary report. Similarly, if a branch manager informs him of a personnel problem, they discuss it and Sheevy instructs the branch manager what to write. Whenever the branch manager writes a disciplinary report, he sends a copy to the district office. Also, at the direction of the district manager, the branch manager sometimes goes out on the road to observe the performance of a technician and then reports back to the district manager. When there is a job vacancy in a branch office, Sheevy places a classified advertisement in a newspaper or instructs the branch manager to do so. He then either discusses the applicants with the branch manager and tells him which ones to interview, or else he personally screens the job applications and interviews the applicants. Sheevy spends approximately 30 percent of his time recruiting and interviewing prospective employees, and he has personally interviewed approximately 60 percent of the employees hired since he became district manager in July 1980. After the interviews, he directs the branch man-

ager to check the references provided by the applicants. Finally, Sheevy decides which of the applicants will be sent for a polygraph test, which is required prior to employment. The polygraph examiner telephones Sheevy and reviews the results of the polygraph tests. Sheevy then contacts the branch manager and informs him whether or not an applicant should be hired. Although the branch manager sometimes recommends an applicant, Sheevy has the final authority in deciding whom to hire.

All technicians in the district have basically the same skills and functions. General working conditions are uniform throughout the district. Compensation and fringe benefits are the same for all technicians.⁴ They drive the same type of trucks and use the same types of equipment. All technicians wear uniforms, work the same hours, and adhere to the same work rules.

There is no bargaining history for any of the branch offices in the West Virginia district. No union seeks to represent employees in a broader unit.

Employee interchange is fairly common. There are approximately 49 technicians employed throughout the West Virginia district. In the 9 months since July 1980, when Sheevy became district manager, there were approximately 20 temporary transfers of technicians. These transfers included two of the seven technicians employed at the Triadelphia branch. Such short-term transfers typically last from 1 day to a week.

The geographical distances among the various offices are significant. The record indicates that the distances between Triadelphia and the other branches range from approximately 55 miles to 190 miles. The distances between the district office in Charleston, West Virginia, and the branch offices range from approximately 50 miles to 230 miles.

In light of the factors discussed above, particularly the broad authority over daily operations and labor relations exercised by Sheevy, the uniform working conditions and employee skills, and the substantial employee interchange, we conclude that a bargaining unit limited to a single branch office is inappropriate.⁵ The geographical distances among branch offices favor Petitioner's unit contention. However, when other important factors militate against a single-branch unit, we do not give geography controlling significance.⁶

⁴ The Employer was in the process of changing its method of compensation at the time of the hearing. Technicians in five branches receive part of their compensation in the form of commissions. The remaining two branches were scheduled for inclusion in this plan beginning in July 1981.

⁵ *Home Exterminating Company*, 160 NLRB 1480 (1966).

⁶ *NCR Corporation*, 236 NLRB 215 (1978).

Since we have found that the unit sought by the Petitioner is inappropriate, and since Petitioner has not indicated that it desires to proceed to an election in a broader unit, we shall dismiss the petition.

ORDER

It is hereby ordered that the petition filed herein be, and it hereby is, dismissed.