

**The Folger Coffee Company and Local 41, International Brotherhood of Teamsters, Petitioner.  
Case 17-RC-8933**

June 19, 1980

**DECISION ON REVIEW**

**BY MEMBERS JENKINS, PENELLO, AND  
TRUESDALE**

On January 18, 1980, the Regional Director for Region 17 issued a Decision and Direction of Election in the above-entitled proceeding in which, contrary to the Employer and the Intervenor,<sup>1</sup> he found appropriate the Petitioner's requested unit of all laboratory technicians (including "packaging technicians") employed at the Employer's Kansas City plant. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Employer filed a timely request for review of the Regional Director's decision on the grounds, *inter alia*, that he made erroneous findings of fact and departed from officially reported precedent.

By telegraphic order dated February 14, 1980, the request for review was granted and the election stayed pending decision on review.

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 considered the entire record in this case with respect to the issues under review, including the brief on review, and makes the following findings:

The Employer is engaged in the processing of coffee beans into ground vacuum-packed and flaked coffee and the packaging, warehousing, and distribution of the processed coffee from its facility located in Kansas City. As noted, the Petitioner seeks to represent a unit of all laboratory technicians (including packaging technicians) at this facility. These employees perform testing or quality control functions. The Employer contends that the only appropriate unit is a residual unit of all unrepresented employees, which would include four unrepresented plant clerical employees.

The Employer's physical plant consists of the north building, where the processing and packaging operations are carried on, the main building, where the raw green coffee beans are cleaned, stored, and blended, and the blending tower located between the main and north buildings. The main

building has six floors, a basement, and a sub-basement, with the food service, vacuum packaging, and green coffee laboratories in various locations throughout the building. The packing materials laboratory is located on the first floor of the north building. The warehousing and shipping department is primarily located in the north building. Production and maintenance employees represented by the Intervenor work in all three buildings.

Nine employees are involved in testing or monitoring products on a full-time basis, and one employee performs these functions on a part-time basis.

Six laboratory technicians are assigned to the main building: three on the third floor in the vacuum packaging laboratory and three in the food service laboratory on the first floor. Two packaging material technicians are assigned to the packaging materials laboratory on the first floor of the north building. The senior laboratory technician, Bederman, works primarily in the green coffee laboratory on the third floor of the main building. He is responsible for monitoring the green coffee, classifying and flavoring roasted coffee, and making recommendations based on his tests. The "green coffee expeditor" is normally assigned to an office area on the third floor of the main building where she performs primarily clerical functions. She also performs flavoring functions in the vacuum packaging laboratory for about 1 hour daily and substitutes for the senior laboratory technician during his annual 6-week vacation.

The laboratory technicians in the vacuum packaging and food service laboratories perform tests such as color, appearance, weight, moisture content, and flavor. The packaging material technicians monitor and inventory packing materials and reject defective materials according to specifications determined by the Employer. They are also trained to perform the same testing performed by the other laboratory technicians for whom they substitute.

No employees punch a timeclock. Production and maintenance employees are paid an hourly rate ranging from \$7.95 to \$9.05. While the technicians are salaried, their weekly salaries computed in hourly rates range from \$6.49 to \$9.06. The laboratory employees, like the production and maintenance employees, receive the same overtime, use the same entrance, cafeteria, locker room, and parking lot, and are subject to the same general plant rules and regulations.

While the technicians do not perform any production work, they go into the production areas several times daily to obtain the samples on which they perform tests. If the test results are within cer-

<sup>1</sup> International Association of Machinists & Aerospace Workers, AFL-CIO, District Lodge 71, which is the incumbent representative of a unit of production and maintenance employees of the Employer at the Kansas City, Missouri, facilities here involved.

tain parameters, no action is taken by the technician; however, if the results vary significantly from the established standards, they report the results to the production department manager. Production and maintenance employees also perform various tests, such as color, flake thickness, weight, vacuum, and package workmanship, most of which are the same tests as those performed by the technicians. They perform the tests in the same manner, following the same procedures set out in the instruction manual, and use the same equipment as do the technicians in performing these tests. These quality tests are standardized, and the exact, precise, step-by-step procedures for performing them are set forth in the instruction manual. Most of the tests can be learned in a half hour of on-the-job training. The ability to integrate the testing procedures, however, requires job experience. No specialized training or experience is required for technicians; however, preference is given to applicants with chemistry, biology, or math backgrounds.

Two technicians formerly worked as production and maintenance employees before they became technicians in 1973. Prior to late 1977, the Employer utilized only two laboratory technicians. When the laboratory was expanded and the number of technicians increased, three technicians were hired from outside and other employees were transferred from the Employer's clerical divisions.

Consideration of all the relevant factors in the instant proceedings demonstrates that laboratory technicians sought herein are not technical employees. *The Sheffield Corporation*, 134 NLRB 1101 (1961); *Hazelton Laboratories, Inc.*, 136 NLRB 1609 (1962). While the Regional Director finds that these laboratory technicians use some discretion in determining whether deviations reflected by the tests are substantial or significant, this alone is not sufficient to qualify them as technical employees. Nor does the fact that hiring preference is given to applicants with chemistry, biology, or math backgrounds suffice, since there is no showing that these laboratory technicians possess any technical training and the tests they perform can be learned through a short period of on-the-job training; generally one-half hour is sufficient. *Litton Industries of Maryland, Incorporated*, 125 NLRB 722 (1959). Furthermore, while the technicians are paid a weekly salary, their pay is equivalent to that of the hourly production and maintenance employees and the unrepresented plant clericals. Not only do these laboratory technicians share common benefits and working conditions with production and maintenance employees and plant clericals, but they also to some degree share common supervision and many of the tests performed by the laboratory

technicians are also performed by production employees, following the same procedures set out in the Employer's instruction manual and using the same equipment.

Based on the foregoing, we find that a unit limited to the Employer's laboratory technicians is too narrow in scope. *Commercial Testing & Engineering Co.*, 248 NLRB 682 (1980). However, as the Petitioner and Intervenor at the hearing expressed a willingness to proceed to an election in any broader unit found appropriate, we find that the requested employees together with all other unrepresented employees, i.e., four plant clerical employees,<sup>2</sup> constitute an appropriate voting group of residual unrepresented employees and we shall direct a self-determination election among them.<sup>3</sup>

We find, therefore, that the following employees employed by the Employer at its Kansas City, Missouri, facility constitute an appropriate voting group:

All full-time and regular part-time laboratory technicians and plant clerical employees employed by the Employer at its Kansas City, Missouri, facility, but excluding production and maintenance employees, office clerical employees, managerial employees, professional employees, guards and supervisors as defined in the Act, and all other employees.<sup>4</sup>

If a majority of the employees vote for the Petitioner, the employees will be taken to have indicated their desires to constitute a separate unit and, in such circumstances, the Petitioner shall be certified as bargaining representative for that unit which we find to be appropriate. If a majority of the employees vote for the Intervenor, the employees will be taken to have indicated their desires to be included in the production and maintenance unit currently represented by the Intervenor and, in such circumstances, the Regional Director shall issue a certification to that effect.

In the event that a majority does not vote for the Petitioner or the Intervenor, the employees in the voting group will have indicated their desire to remain unrepresented and the Regional Director shall issue a certification of results.

Accordingly, we hereby remand the case to the Regional Director for the purpose of conducting

<sup>2</sup> In view of this finding, it is unnecessary to resolve the unit placement issue relating to Wegener, a dual-function employee.

<sup>3</sup> *Lorillard, a Division of Loews Theatres, Inc.*, 219 NLRB 590 (1975).

<sup>4</sup> As the voting group found appropriate herein is larger than the unit requested, the Petitioner is accorded a period of 10 days in which to submit the requisite showing of interest to support an election herein. In the event the Petitioner does not wish to proceed with an election herein, it may withdraw its petition without prejudice by notice to the Regional Director within 7 days from the date of this Decision on Review.

an election pursuant to his Decision and Direction of Election, as modified herein, except that the payroll period for determining eligibility shall be that ending immediately before the date of issuance of this Decision on Review. [*Excelsior* footnote omitted from publication.]