

**La Crosse Printing Company, Inc. and Graphic Arts International Union, Local 507, AFL-CIO, Petitioner. Case 30-RC-3616**

May 1, 1980

**CERTIFICATION OF REPRESENTATIVE**

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

Pursuant to authority granted it by the National Labor Relations Board under Section 3(b) of the National Labor Relations Act, as amended, a three-member panel has considered determinative challenges in an election<sup>1</sup> held on November 7, 1979, and the Hearing Officer's report recommending disposition of the same. The Board has reviewed the record in light of the exceptions and briefs, and hereby adopts the Hearing Officer's findings and recommendations only to the extent consistent herewith.

The Employer is a small printing company located in La Crosse, Wisconsin. In this proceeding, Petitioner seeks to represent a stipulated unit of the Employer's pressroom employees.<sup>2</sup> The Employer's operations are divided into various departments. Included in these are the pressroom, the preparatory department, the composing room, and the bindery department. The bindery department employees are presently represented by Petitioner in a separate unit. Until October 1, 1979, the composing room employees were represented by a local of the International Typographical Union. At that time, that union became defunct. The pressroom employees were represented by Intervenor in this proceeding for over 25 years. Intervenor's most recent contract in that unit extended until November 30, 1979. Because of the pendency of the timely petition in this proceeding, however, which sought the same pressroom unit that Intervenor had represented for many years, no bargaining on a new contract for the pressroom unit has taken place. At the election, Petitioner challenged the ballots of Harold Bartig, Larry Taylor, and Gordon Neuman on the ground that they were not included in the stipulated unit. The Hearing Officer recommended overruling all three challenges. She

<sup>1</sup> The election was conducted pursuant to a Stipulation for Certification Upon Consent Election. Of approximately 19 eligible voters, 9 cast ballots for Petitioner, and 7 cast ballots for International Printing and Graphic Communications Union, Local 189, Intervenor herein. There were three challenged ballots, a number sufficient to affect the results of the election.

<sup>2</sup> The stipulated unit includes:

All production employees of printing and lithographic presses and associated devices employed in the pressroom, but excluding all others, including supervisors, office clerical employees, watchmen and guards as defined in the Act.

recommended that the challenge to Bartig's ballot be overruled on the ground that he was a dual-function employee who performed sufficient pressroom work to be included in the stipulated unit. Although the Hearing Officer found Taylor and Neuman are composing room employees involved in the traditional hot typesetting process, she recommended including them in the unit also, on the ground that composing room employees share a sufficient community of interest with pressroom employees to warrant such inclusion.<sup>3</sup> In making this latter recommendation, however, the Hearing Officer failed to consider evidence bearing on the issue of the scope of this unit stipulation as agreed to by the parties.

We agree with the Hearing Officer that Harold Bartig performs sufficient pressroom work to be included in the stipulated unit and that the challenge to his ballot should be overruled. However, we find that the Hearing Officer erred in ignoring evidence of the scope of the stipulation and that, in this case, proper construction of the stipulation requires that the challenges to the ballots of Taylor and Neuman be sustained.

In ruling on challenges in cases involving stipulated units, the Board will rely on the scope of the stipulation itself unless it is contrary to the Act or established Board policy.<sup>4</sup> Where the language of the stipulation is clear and unambiguous, subjective intent of the parties at odds with such language is ignored and the clear meaning of the stipulation governs.<sup>5</sup> In this case, usage clearly explicates the meaning of the stipulation and establishes that the stipulation excludes Taylor and Neuman from the unit.<sup>6</sup> Thus, the crucial language of the stipulation is identical to the jurisdictional language of the most recent collective-bargaining agreement covering pressroom employees which was executed by the Employer and Intervenor.<sup>7</sup> While Intervenor has represented a separate unit of the Employer's pressroom employees for many years, the Employer's president, Charles Morgan, admitted that Neuman and Taylor have never been covered by those agreements. Rather, Neuman and Taylor had been represented, as composing room employees,

<sup>3</sup> The Hearing Officer included Taylor in the composing room as a dual-function employee. We agree with this finding.

<sup>4</sup> *The Tribune Company*, 190 NLRB 398 (1971).

<sup>5</sup> *White Cloud Products, Inc.*, 214 NLRB 516 (1974).

<sup>6</sup> Cf. *Donald Carroll Metals, Inc.*, 185 NLRB 409 (1970).

<sup>7</sup> As noted, *supra*, the stipulation, which was signed by all three parties to the election, covers:

All production employees of printing and lithographic presses and associated devices employed in the pressroom, but excluding all others. . . .

The contract states:

It is agreed that . . . the jurisdiction of this agreement extends over all types of printing and lithographic presses and associated devices employed in [the] pressroom.

by the La Crosse Local of the International Typographical Union until it became defunct in October 1979. Morgan also admitted that the job classifications reflected in the most recent agreement with Intervenor, which are limited to press operators, are the only ones in fact covered by it. Thus, if all parties to the stipulation, Petitioner, Intervenor, and the Employer, were familiar with the jurisdictional clause of Intervenor's contract, and understood its scope, we must sustain the challenges to the ballots of Taylor and Neuman.

We cannot presume that, when the stipulation here was signed, either the Employer or Intervenor was unaware of the meaning of the jurisdictional language of their own collective-bargaining agreement. Neither can we presume Petitioner was ignorant of this language. Thus, in seeking an election in the stipulated unit, Petitioner was attempting to replace a union which had a long-established bargaining relationship with the Employer, and which had represented a unit, i.e., a pressroom unit, traditionally found appropriate in the printing industry.<sup>8</sup> On October 12, 1979, Petitioner was certified as the exclusive collective-bargaining representative for a separate unit of the Employer's bindery employees, also a traditionally appropriate unit.<sup>9</sup> Additionally, there is evidence that Petitioner had begun organizing the employees in the Employer's preparatory department, which it claims in its brief includes the composing room employees. Although the composing room work involves principally the traditional hot typesetting process, and the preparatory department the newer cold typesetting process, a combined unit of employees in such departments has in the past been found appropriate on the ground that the cold typesetting process is really a substitute for hot typesetting.<sup>10</sup> In short, it appears that Petitioner seeks to represent the bulk of the Employer's employees in three separate units which the Board in other contexts has found appropriate. All of Petitioner's actions appear highly

deliberate. In this context, we find it unlikely that Petitioner would seek to replace an established collective-bargaining representative without obtaining basic information on the scope of its representation.<sup>11</sup>

Thus, usage, known to all parties, establishes that the scope of the unit stipulation here is identical to that of the jurisdictional clause in the Employer's collective-bargaining agreement with Intervenor. Therefore, because it is admitted that this agreement was never applied to Larry Taylor and Gordon Neuman,<sup>12</sup> we shall exclude them from the unit and sustain the challenges to their ballots.

Since the ballot of Harold Bartig cannot now affect the outcome of the election, we shall not order that it be opened. Instead, since Petitioner has received a majority of the valid votes cast, we shall certify Petitioner in the stipulated unit.

#### CERTIFICATION OF REPRESENTATIVE

It is hereby certified that a majority of the valid ballots have been cast for Graphic Arts International Union, Local 507, AFL-CIO, and that, pursuant to Section 9(a) of the National Labor Relations Act, as amended, said labor organization is the exclusive representative of all the employees in the following appropriate unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment:

All production employees of printing and lithographic presses and associated devices employed in the pressroom, but excluding all others, including supervisors, office clerical employees, watchmen and guards as defined in the Act.

<sup>11</sup> We do not find that Petitioner's failure to object to the inclusion by the Employer of Taylor and Neuman on the *Excelsior* list has sufficient weight to indicate ignorance of the extent of Intervenor's representation.

<sup>12</sup> In the face of this admission, we find unpersuasive Intervenor's argument that Taylor and Neuman fall within the literal terms of the unit stipulation because their work is integrally related to that of the pressroom and thus constitutes work on devices "associated" with the presses. See fn. 7, *supra*.

<sup>8</sup> See, e.g., *The Conger Printing Co.*, 175 NLRB 551 (1969).

<sup>9</sup> *The Conger Printing Co.*, *supra* at fn. 8.

<sup>10</sup> See, e.g., *Leslie F. Clarke & Co., Inc., Clarke Publishing Co., Inc., and Portland Trade Pressroom, Inc.*, 147 NLRB 1240, 1242 (1964).