

Dixon Industries, Inc. and International Association of Machinists and Aerospace Workers, AFL-CIO, Petitioner. Case 17-RC-8749

February 28, 1980

DECISION AND 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 objections and determinative challenges to an election held on June 14, 1979,¹ and the Hearing Officer's report recommending disposition of same. The Board has reviewed the record in light of the exceptions and briefs, and hereby adopts the Hearing Officer's findings² and recommendations,³ pertinent portions of which are attached hereto as an appendix.

CERTIFICATION OF REPRESENTATIVE

It is hereby certified that a majority of the valid ballots have been cast for International Association of Machinists and Aerospace Workers, AFL-CIO, and that, pursuant to Section 9(a) of the National Labor Relations Act, as amended, the foregoing labor organization is the exclusive representative of all the employees in the following appropriate unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment:

All full-time and regular part-time hourly-paid production and maintenance employees employed by the Employer at its Coffeyville, Kansas, facility but excluding all office clerical employees, professional employees, guards and supervisors as defined in the Act.

MEMBER TRUESDALE, concurring and dissenting in part:

¹ The election was conducted pursuant to a Stipulation for Certification Upon Consent Election. The tally was: 30 for, and 25 against, the Petitioner; there were 5 challenged ballots, a sufficient number to affect the results.

² In the absence of exceptions thereto, we adopt *pro forma* the Hearing Officer's recommendations that the challenges to the ballots of Calvin Harvey, Jr., and George McDuffee be overruled. However, as we further adopt the Hearing Officer's recommendations that the other challenges be sustained, the ballots of Harvey and McDuffee are no longer determinative. Accordingly, we shall not direct that these ballots be opened and we shall certify the Petitioner.

³ *Tucson Gas & Electric Company*, 241 NLRB 181 (1979), relied upon by our dissenting colleague, is factually distinguishable from the case under consideration herein. Thus, the leadman at issue in *Tucson* was directly and actively supervised by two admitted supervisors having clear authority over the department in which that leadman was employed. In the case we here

Like my colleagues, I would adopt the Hearing Officer's report with respect to the Employer's objections. I would not, however, adopt his recommendation that the challenges to the ballots of Obbie Estes, Steve Reedy, and John Burris be sustained on the ground that they are supervisors. To the contrary, the record shows that these three, albeit leadmen with some extra responsibility, are regular employees who do not act as supervisors as that term is defined in the Act. I would therefore overrule the challenges and remand this case to the Regional Director for opening and counting of the ballots, the issuance of a final tally, and certification of representative or determination of result.

Estes, Burris, and Reedy occupy comparable positions as leadmen: Estes in the transaxle department, Burris on the assembly line, and Reedy in the fabrication and mill department. The record shows that these leadmen spend most of their day working alongside other employees. They do not participate in any way in the hiring or firing of employees. They do not formally review the work performance of employees, and they do not attend supervisory meetings. They are hourly paid.

Nevertheless, the Hearing Officer found them to be supervisors because the leadmen train employees, assign them work, reassign employees, assign overtime, and sometimes give employees permission to leave work early. Moreover, as found by the Hearing Officer, in one instance, one leadman orally recommended to a supervisor that one of the employees should receive a wage increase.

The fact that these individuals perform these duties, however, does not establish that they are supervisors, for it is clear from the record that in performing these duties they are merely carrying out established company policy. They act as a more experienced employee training other employees in the routine performance of the job, directing them, as needed, to carry out the work. They are not, however, involved in establishing company policy. Moreover, they do not formally evaluate employee work; they do not discipline employees for failing to perform and, while they have criticized employees who have not performed properly, nothing in the record shows that that criticism is

consider Production Manager Luther Webb and First-Shift Supervisor Bill Banks, the two individuals immediately superior to Estes, Reedy, and Burris in the chain of command, are only present for brief periods of time in the areas where Estes, Reedy, and Burris are situated. Moreover, Webb and Banks are not intimately engaged in the day-to-day production process carried on in those areas. Thus, it is clear that Estes, Reedy, and Burris exercise a greater degree of independent judgment than did the leadman at issue in *Tucson*.

While Member Penello agrees with the Hearing Officer that the misrepresentations alleged in the Employer's objections do not warrant setting aside the election, he so finds for the reasons set forth in *Shopping Kart Food Market, Inc.*, 228 NLRB 1311 (1977), the principles of which he still adheres to. See his dissenting opinion in *General Knit of California, Inc.*, 239 NLRB 619 (1978).

used for formal disciplinary action of any kind. In addition, while one leadman, in one isolated instance, recommended a wage increase, the record shows that his recommendation was ignored. Finally, with respect to overtime, the record shows that the leadmen do not determine the overtime hours of the employees. They are told that overtime is needed, and they ask employees if they will work overtime. With respect to permission to leave early, the leadmen merely carry out established company policy, acting as a conduit between the employee and management.

Finally, the leadmen's duties as found by the Hearing Officer are virtually identical to those of the leadmen in *Tucson Gas & Electrical Company*, 241 NLRB 181 (1979). In that case the Board reversed a regional director and found that the leadmen in question were employees, not supervisors. As in this case, the leadmen in *Tucson Gas* had orally reprimanded employees, scheduled overtime, and assigned work. The Board concluded, however, that these duties were routine in nature since the leadmen merely carried out established company policy. Here, as there, the critical consideration is the absence of any authority on the part of the leadmen to hire, fire, evaluate, discipline, promote, or effectively recommend such actions. Accordingly, I dissent.

APPENDIX

FINDINGS OF FACT CONCLUSIONS AND RECOMMENDATIONS

I. THE CHALLENGED BALLOTS

A. Background

The following undisputed facts show that the Employer is located in Coffeyville, Kansas, where it operates a plant which is engaged in the manufacture of lawn mowing equipment. The Employer has a 2 shift operation, i.e., 7:00 a.m. to 3:30 p.m. and 3:30 p.m. to 2:00 a.m.⁴ The production area is a 150 feet by 400 feet steel building. There are approximately 45 production employees on the first shift and 15 production employees on second shift.

It is undisputed that the Employer's President K. O. Dixon; Production Manager Luther Webb; First shift supervisor Bill Banks; second shift supervisor Jess Kerns and Weld shop supervisor Jim Hoggett are supervisors within the meaning of the Act and I so find.⁴ While the Employer has an oral and written reprimand policy, only Dixon and Webb have issued written reprimands while the 3 other undisputed supervisors have only issued oral reprimands. It is further undisputed that the 4 voters challenged by the Petitioner as supervisors do not have the authority to hire or fire employees or effectively recommend such action.

⁴ The first shift works an 8 hour-5 day week, while the second shift works a 10 hour-4 day week.

B. The Employer's "Employment Policies"

It is undisputed that the Employer distributes a 13 page pamphlet entitled "Employment Policies" to each employee when that person is hired. That pamphlet, which contains 23 numbered provisions reads, in pertinent part, as follows:

4. The Employee's Supervisor

The employee's supervisor is the link with the Company and advises the new employee of job duties and Company procedures. Employees should contact their supervisors with any problems concerning employment.

6. Company Benefits

C. Vacations

3. Vacations will be scheduled by the employee's supervisor who will consider preferences whenever possible.

9. Absences and Tardiness

When overtime work is required, supervisors may contact employees regarding availability to be scheduled for overtime. . . .

10. Leave of Absence

. . . A personal leave of absence must be requested in writing by all employees to their supervisor noting the exact reason for the requested leave. The supervisor will process the request through the proper channels and will notify the employee whether or not the leave was approved.

Employees should not leave their jobs until notified that their leave of absence has been approved. An emergency leave may be requested by calling the immediate supervisor or the Personnel Department.

11. Maternity Policy

. . . As soon as pregnancy is confirmed by a physician, the employee should notify her supervisor immediately. . . .

12. General Rules

A. Infractions subject to the following disciplinary actions:

First Offense - verbal reprimand by supervisor (supervisor will send memo to Personnel Department for employee's file).

Second Offense (within 90 days of first offense) — written reprimand by supervisor (copy to employee and copy to Personnel Department for employee's file).

Third Offense (within 90 days of second offense) — Termination.

5. *Leaving Plant* — Leaving the Plant during working hours without proper authorization.

7. *Company Telephones* - Using Company telephones for personal calls during work shift. Calls may be made during break periods with permission of supervisor.

⁴ Dixon and Webb are salaried. Banks and Hoggett make \$7.75 per hour. Kerns makes \$6.90 per hour.

B. Infractions subject to immediate termination:

2. *Company Property* — Failure of an employee to report to the supervisor any damage to Company property or the misuse of any tools; This includes defacing the walls in the restrooms.

13. *Safety Rules*

5. If not thoroughly familiar with any equipment, request instructions from a supervisor before operating. Use the right tool for the job.

9. Report to the supervisor in charge, at once, any unsafe condition or situation that is observed.

10. Report every injury to a supervisor immediately.

12. Operation of fork lifts by unauthorized persons is not permitted. No one is authorized to operate fork lift unless designated and instructed to by the production supervisor.

14. *Accidents*

In the event of an industrial injury, Dixon Industries, Inc. employees will receive full legal compensation. The Company is insured to meet the requirements of the Workmen's Compensation Act of the State of Kansas. To be eligible, employees are required to report all accidents, *no matter how minor*, to their supervisor at once, and they *must complete an accident form within forty-eight (48) hours after an accident occurs*. If medical treatment is required, the employee must be treated by a Company-designated physician.

15. *Entering and Leaving the Plant*

. . . Should it become necessary for an employee to leave the plant before the end of the shift for any reason, permission must be obtained from the immediate supervisor . . .

16. *Time Cards and Time Tickets*

. . . Time tickets must be filled out daily by each employee and deposited in the proper place as instructed by the direct supervisor. . . .

17. *Overtime*

In order to meet production schedules, sometimes it will be necessary for supervisors to request employees work overtime. . . .

18. *Paychecks and Procedures*

C. Supervisors will distribute paychecks each pay day. . . .

19. *Personal Tools*

Employees may be required to furnish certain tools that are required to properly perform their jobs. In such case, the supervisor will so inform the employee, and the employee will be expected to obtain these tools prior to the end of the first ninety days employment. Any tools brought into the Plant at the time of employment, or at any later time, must be recorded on an 'Employee's Tool Record' form. This should be done through the employee's supervisor.

Anytime an employee desires to remove personal tools from the Plant, a Material Authorization Pass must be obtained from the supervisor. . . .

20. *Work Area*

Employees are to remain in their assigned work area at all times unless given permission to leave by their supervisor, except for drinking fountain and restroom privileges. . . .

21. *Reporting Errors*

To make an error is no crime, but to make an error and not report it is a very serious offense. Employees should report any errors they make or observe to their supervisor immediately. . . .

22. *Plant Security*

Employees are not permitted to remove from the Company premises any Company or personal property, excepting lunch boxes, unless a Material Authorization Pass has been obtained. Should it become necessary to remove any property from the Company premises, employees should contact their supervisor to obtain a pass.

C. The Employer's Wage Scale

It is undisputed that on May 7, President Dixon and Production Manager Webb formulated and implemented a wage scale for all production employees. Although this document was neither distributed nor made available to unit employees or supervisors at that or any subsequent time prior to the hearing, all employees received wage increases on May 7 commensurate with their grade and tenure with the Employer. That document, in pertinent part, reads as follows:

WAGE SCALE — EFFECTIVE 5/7/79

	PROGRESSIVE INCREASES				
	(1) Minimum Rate	(2) 12 Weeks After Last Increase	(3) 12 Weeks After Last Increase	(4) 12 Weeks After Last Increase	(5) Merit Range Maximum
Grade IA	\$ 6.25	\$ 6.50	\$ 6.65	\$ 6.80	\$ 7.75
Grade I	5.25	5.50	5.65	5.80	6.25
Grade II	4.50	4.65	4.75	4.85	5.25
Grade III	4.20	4.35	4.45	4.55	4.80
Grade IV	4.00	4.15	4.25	4.35	4.65
Grade V	3.80	4.05	4.15	4.25	4.50
Grade VI	3.75	3.90	4.00	4.10	4.35
Grade VII	3.55	3.65	3.75	3.85	4.10

The above wage scale shows the minimum hourly rates, the progressive increases and merit range for each grade. This wage scale will apply as follows:

1. New employees are assigned a classification, grade and rate comparable to their qualifications on the job for which they are hired, as nearly as can be determined at time of hire. At any time during the first ninety days of employment, the company may change the classification, grade and rate to one more nearly comparable to that of the employee's performance on the job.

3. Merit increases and/or reclassifications may be granted any time by the company depending upon job performance. Performance reviews shall be conducted for each employee every twenty-six weeks after reaching the last progressive increase (Col. 4) in their labor grade.

4. Any employee designated as 'Leadman', in any of the above grades, shall receive a premium of .25c per hour over and above the wage scale. (Example: A Leadman in Grade I who is at the 4th progression would receive \$5.80 + .25c Leadman Premium - \$6.05/Hour).

In connection with the above wage scale the Employer, under a document entitled "Job Classifications," is able to establish the progression and merit increases for each unit employee. That document, in pertinent part, reads as follows:

LEADMAN - IA, I

To assign work and to assist and train employees under his jurisdiction. To perform work as required. Maintain a high standard of quality, have parts and/or materials available to be worked and maintain records and assist in scheduling of work as required by supervisor. Keep supervisor informed of actions and performance of all employees and condition of equipment.

D. Obbie Estes

The undisputed facts show that Estes has been employed since February 1978 and has been classified as Grade I leadman in the Transaxle Department since October 16, 1978. His rate of pay prior to the election was \$6.05 per hour. Although the Employer asserted through Production Manager Webb that some department employees would be receiving higher wages than leadpersons, the evidence discloses that two other transaxle employees, namely, Lois Blakeslee and Bill Vest, both of whom were hired in 1974, make \$5.00 and \$5.80, respectively, in that department.

Deborah Muller testified that she is 1 of 6 employees in the transaxle department and that Obbie Estes makes assignments of work to the department employees and transfers them from one job to another in order to build up a supply of parts. Muller further stated that Estes makes the transfers on his own. Muller also testified that during her four month tenure in that department she has requested permission from Estes on 5 occasions to leave work for personal reasons and that Estes has granted her that permission immediately without checking with either Webb or Banks. She specifically remembered one occasion in mid-April when she became sick; another occasion in early June when her babysitter had to leave early and a third occasion just before the election when she had to run car keys home to her husband. Muller also stated that if she has a production problem, she takes it directly to Estes. Muller, who was a recipient of the May 7 blanket raise, testified that in early June she told Estes she needed a raise and asked who she should talk to. Estes said she was a good worker and would recommend to Webb that she be given a raise. Estes

then left and Muller observed him talking to Webb although she did not overhear their conversation. However, Estes later told Muller that he had talked with Webb on two occasions about the raise. Muller further testified that Estes has independently assigned overtime to her on at least 10 occasions and that if she has requested not to work it, Estes has granted her permission not to work overtime. Finally, Muller testified that on two occasions Estes told her that he was her supervisor. The first one took place just before the election when Estes told Muller that when the union got in, he wouldn't have to do anything - that he could just walk around like supervisors do and not have to do any work. The second occasion happened shortly after the election. Muller had missed a safety meeting and the following day she approached Estes about adjusting the transaxles. Estes noticed that Muller was not wearing her safety glasses and told her that he was her supervisor and if her supervisor told her to get on her safety glasses and she didn't "out the door she would go."

Debora Haley testified that she has been in the Transaxle Department since October 1978. She was brought into the department by Banks and introduced to Estes. Since that time, Banks has visited the department only 2 or 3 times and Webb visits it, at most, once a week. Estes trained her on the work she was to perform and continually instructs on how to perform it. Estes also assigns Haley the work she is to perform and will reassign her on the jobs she is to do - sometimes as much as 3 to 4 times per day. Haley testified the reasons given her for reassignment was (1) she wasn't doing the job fast enough (2) Estes had a rush order or (3) he wanted to build up parts. Estes also inspects Haley's work and points out what she is doing wrong. On separate occasions in late February and mid-May Estes told her that she wasn't working up to her capabilities. Haley testified that she has left work either early or for a period of time on 6 occasions. She was granted permission to do so once by Webb, twice by Banks and 3 times by Estes. On 1 occasion, Haley recalls that she asked Estes to leave to take her child to the dentist and Estes granted it immediately. Haley has been reprimanded by Banks on 1 occasion and Estes twice - one time for staying in the paint shop too long and the second for talking to another employee. Haley also testified that in late April or early May she complained about the procedure used in performing work on a certain machine. Estes told Haley if she didn't like the way it was done, he could put her on a job where she would have to quit. On another occasion, Estes told Haley that if the Union got in he would be allowed to "walk around and wear a white shirt and wouldn't have to work." Haley also testified that during the first part of the year Estes assigned her overtime almost on a daily basis for a 2 to 3 month period of time. Haley further stated that while the "Employment Policies" lists 7 specific tools employees are required to have, Estes told her she would only be required to have safety glasses and a hammer. When she has had problems with her machine, tools or production in general, or sustained an on the job injury, she reports the problem directly to Estes. In addition, Estes has changed the procedure in his department on filling

* This is similar to the statement Estes told Muller when he used the word "supervisor."

out production cards which is contrary to the procedure set up by Production Manager Webb.

Ada Hyatt testified that she was employed in the Transaxle Department for 3 months. While there, Estes trained her for the jobs she was to perform and thereafter inspected her work for quantity and quality and instructed her on how to perform her work in a better manner. He also assigned and reassigned her work. Estes also, upon Hyatt's request, transferred her to lighter work. Hyatt further testified that when she sustained an on the job injury she reported it to Estes. Finally, Hyatt attested that Estes has independently granted her permission to leave the plant and work overtime.

Estes testified that he wears work clothes in performing "anything that has to be done" in his department. Estes further stated that he does substantially the same work as other employees do for 8 hours unless he is "hunting parts."

While Estes originally denied ever recommending an employee for a raise, he later admitted that he did talk with Debbie Muller wherein she told him several times that she was going to quit unless she got a raise. In attempting to appease Muller, who he did not want to lose as an employee, Estes said he would talk to Webb about getting her the raise. Estes, in fact, went to Webb and told him that Muller was going to quit unless she received a raise by a certain date and that she was a good worker and was doing a good job.⁶ With respect to the safety glasses reprimand that Estes gave Muller, his version parallels hers except that he denied he used the word "supervisor." Estes also admitted the conversations he had with Haley about taking too long in the paint shop and talking to another employee. Estes further admitted that he trains, and instructs employees, assigns and reassigns them their work. Estes also admitted that he grants employees permission to leave work without checking either with Banks or Webb. Estes did not deny the conversation with Haley wherein he told her he would put her on a machine which would make her quit. Nor did he deny the statements about walking around like a supervisor if the Union got in.

Based upon Estes' admissions and the credible testimony of Muller, Haley and Hyatt, I find that Obbie Estes is a supervisor within the meaning of Section 2(11) for the following reasons:⁷

Estes clearly uses independent judgment in training, instructing, inspecting, assigning, reassigning and transferring employees in his department. He is given material and employees to put together a certain quota of work product each day by Webb and Banks and it is up to his judgment and responsibility to see that the quota is met and met properly; whether or not he actually works on the product. Thus, I find he is in charge of production for the transaxle department which, alone, qualifies him as a supervisor

⁶ Webb could only recall that Estes came in and said that Muller was going to quit unless she got a raise.

⁷ I was most impressed with the testimony of Haley and Muller. Both were frank and gave responsive answers to, in most cases, non-leading questions. At the beginning of the hearing I cautioned both parties that, since I had to make credibility findings, they should elicit testimony from their witnesses in a non-leading fashion. Thus, that testimony I rely upon, in most instances, from Haley, Muller and Hyatt, came from non-leading questions. However, the Employer solicited general denials from both Estes and Webb in the form of leading questions. Moreover, Estes, in an attempt to impress me, tried to play down his role of responsibility by joking about his encounters with Haley and

within the meaning of Section 2(11). *Little Rock Hardboard Company*, 140 NLRB 264, 265; *Custom Bronze & Aluminum Corp.*, 197 NLRB 397. Moreover, his responsible direction of employees, *Illine Steel Fabricators, Inc.*, 197 NLRB 303; granting of employees time off, *Western Saw Manufacturers, Inc.*, 155 NLRB 1323, 1329, fn. 11; maintaining discipline, *Lee-Rowan Manufacturing Company*, 129 NLRB 980, 984 and recommending Muller for a wage increase further convince me of his supervisory authority. In addition, I rely upon the facts that Banks or Webb rarely came into the transaxle department which leads me to conclude that they were supervising, or at least overseeing employees in those departments wherein a supervisor was not maintained and that Estes performed many of the functions listed for a supervisor in the Employer's "Employment Policies." Finally, as there would be only 1 1/2 supervisors,⁸ i.e., Banks and Webb, to supervise approximately 40 employees,⁹ in a 60,000 square foot production area there would be an unrealistic number of supervisors to unit employees on the first shift and I so find. *Ridgely Manufacturing Co.*, 198 NLRB 860, 861; *Maryland Cup Corp.*, 182 NLRB 686, 688. Accordingly, I recommend that the challenge to the ballot of Obbie Estes be sustained.

E. John Burris

The undisputed facts show that John Burris was hired in February 1975; was transferred to the assembly line in early 1976 and became leadman in that department on October 16, 1978. His rate of pay at the time of the election was \$6.05 per hour. It is further undisputed that while there are 5 or 6 other employees in that department, Burris has the most seniority while the second most senior employee, Mark Rea, who started in September 1978 is classified as a grade 6 at a rate of \$4.10 per hour.

Ada Hyatt testified that she was employed on the assembly line for 20 months until about 2 weeks before the hearing. During the time that Burris has been leadman on that line he has trained Hyatt and assigned her the work she has to do and reassigned her to other work without direction from either Banks or Webb. Burris and Banks have both assigned her overtime and Burris has excused her from working overtime. On one occasion, Burris directed her to wear her safety glasses. Burris also inspected her work and performed the same function as other assembly employees about 50 to 60% of the time. Hyatt further testified that Banks only occasionally comes in the department.

Fred Wade testified that if parts break or are misassembled, Burris brings the entire unit to the welding department where he directs a welder how to fix the part.

John Burris testified that he spends 100% of his time working on the assembly line and that the work performed

Muller. I was not impressed. With respect to Webb, he attempted to show that he and Banks ran the entire show on the day shift and were on top of every department and employee therein. However, his non-leading answers were vague and based upon the record testimony as a whole and his demeanor as a witness, I found him not to be as involved with production and the responsibilities and abilities of his production employees as he attempted to portray and he least impressed me of all the witnesses that testified at the hearing. Thus, where there are conflicts in the testimony of Estes and Webb as opposed to Haley, Muller and Hyatt, I credit the latter.

⁸ Webb only spent 1/2 his time in the production area.

⁹ Hoggett supervises 5 welders.

there is routine in nature and that he neither directs employees, assigns them their duties or reassigns them work. Burris further stated he could not remember disciplining Hyatt and did not assign her overtime. In addition he denied having welders do repair work. However, he did admit training new employees and receiving monthly production schedules from Webb. Burris also admitted that if employees have production problems, they bring them to him.

Based upon their demeanor as witnesses, I credit Hyatt and Wade. Burris was flippant as a witness. Further, I find it hard to believe that while Burris received production schedules which put him in charge of assembly, the work was done in a routine fashion without his responsible direction or independent judgment. There are two reasons I find this untenable. First, as shown by other record testimony, the Employer ran more than one model and was constantly changing, thereby necessitating a need of direction from someone on assembly - that being Burris. Secondly, the oldest employee had only a tenure of 8 months at the time of the election with 4 to 5 employees less than that. Thus, it is hard to conceive that they had sufficient experience to continually exercise independent judgment in performing their duties to make them routine in nature on fairly sophisticated pieces of equipment.

Based upon Burris' admissions and the credited testimony of Hyatt and Wade, I find that Burris responsibly directed employees in their work and used independent judgment in scheduling work and, therefore, was in charge of the assembly line. I further find that he independently assigned overtime to, and disciplined, Hyatt. Thus, under the cases cited above, I find Burris to possess sufficient authority to be a supervisor within the meaning of Section 2(11) of the Act. Accordingly, I recommend that the challenge to his ballot be sustained.

F. Steve Reedy

It is undisputed that Steve Reedy has been employed since September 1976 and became a class 1A leadman in the fabrication and mill department on November 20, 1978 although he has been in the department for two years. His present rate of pay is \$7.50 per hour. There are 6 additional production employees in the department but Reedy has the most seniority. Paul Stevens has been in the department since February 1, 1977—which is longer than Reedy—but he is a Social Security annuitant and only works portions of each year. Stevens, at the time of the election, was making \$4.00 per hour. Linda Ross has been in the department since May 22, 1978, and her rate of pay at the election was \$4.25 per hour. Wanda Hobbs has been in the department since October 31, 1978 and was making \$4.35 per hour at the time of the election. The remaining 3 employees have been in the department less than 6 months. Reedy also repairs tools for the tool and die department but the record does not establish how much time he spends performing this function.¹⁰

¹⁰ The Employer attempted to establish through its President and Wage Scale that the maximum rate of pay for a tool maker was \$7.75 per hour and because of Reedy's work in that department, the Employer was justified in paying him \$7.50 per hour. However, I reviewed Reedy's personnel file and no

Linda Ross testified that since Reedy has become her department leadman, he trains employees, instructs employees, assigns work to employees and independently reassigns work to employees, transfers them from one job to another and grants employees permission to switch from one job to another. Reedy also inspects the work of each employee after it is completed. Ross further testified that Webb rarely comes into the department and that Banks only makes an occasional visit and never more than once a day. When Banks visits the department he only speaks with Reedy. In addition, Reedy goes to Webb's office to obtain the department's work orders. When Reedy returns to the department he places the work orders on his toolbox where he displays independent judgment in releasing them to the department employees. Ross testified that Reedy does very little production work but spends most of his time either setting up machines which takes a major part of the day; releasing work orders or performing the duties described above. If a machine breaks down or there is a problem with production, it is reported to Reedy. When Reedy is absent from work, his duties are performed either by Webb or Banks. Like Webb and Banks, Reedy has a key to the supply cabinet. Ross attested that both Webb and Reedy have reprimanded her—the incident involving Reedy occurring in the early part of the year when Reedy observed Ross and two other employees sitting down while performing their drilling. In addition, Ross testified that she observed on several occasions what appeared to be verbal reprimands that Reedy gave to employee Pat Simmons when she was performing drilling work. Finally, Ross testified that since Reedy has become leadman, he granted her permission to leave the plant on 4 occasions when she was either sick or had a dentist appointment.

Deborah Muller testified that when she was hired in March, she worked about a week and a half in Reedy's department. While there, according to Muller, Reedy used independent judgment in assigning overtime or in excusing employees from working overtime and in making work assignments.

Reedy, in most instances, admitted the testimony of Ross and Muller. In other areas, he did not deny their testimony. There was only 1 area where he disagreed with Ross. Reedy testified that while employees have requested permission to leave the plant, he has not granted or denied it but passed "the word" on to Banks or Webb.

In resolving the above issue, I credit Ross' version. There was no hesitation in her response that Reedy granted time off and did so immediately without consulting or passing "the word" to Banks or Webb. Reedy, who impressed me as a leader who ran a "tight ship" and exuded such significant confidence in himself that I had no doubt he had complete control of his department, including the granting of time off and I so find.

mention of tool and die maker was stated therein. Rather, his file showed that he was paid \$7.50 per hour based upon his classification of grade 1A leadman in the fabrication and mill department and I so find