

National Press, Inc. and Graphic Arts International Union, AFL-CIO, Local 86B. Case 13-UC-113

April 16, 1979

DECISION AND ORDER

BY MEMBERS JENKINS, MURPHY, AND TRUESDALE

On September 15, 1978, the Regional Director for Region 13 issued a Decision and Order in this proceeding finding that the office department heads employed by the Employer at its Waukegan, Illinois, facility are supervisions within the meaning of Section 2(11) of the National Labor Relations Act and ordering that the petition for unit clarification be dismissed. Thereafter, in accord with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Petitioner filed a timely request for review of the Regional Director's Decision on the grounds that the Regional Director departed from officially reported Board precedent and made erroneous findings as to substantial factual issues. The Employer filed a statement in support of the Regional Director's Decision dismissing the petition.

On November 7, 1978, the request for review was granted. Thereafter, the Employer filed a brief 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 including the Petitioner's request for review and the Employer's brief and hereby adopts the Regional Director's Decision and Order, pertinent parts of which are attached hereto as "Appendix A."¹

ORDER

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

¹ Also attached as Appendix B, are pertinent parts of the Regional Director's Decision and Direction of Election in a related representation proceeding, Case 13-RC-14662.

APPENDIX A

While the three [department heads] testified that they do not assign work on a daily basis because the employees in their departments know their duties, one witness testified that when temporary transfers of employees are made out of the witness's department, Plant Manager Bielinski typically asks the witness whether employees are free to be transferred, and the witness informs employees of such temporary transfers. Further, the same witness testified that

when the workload is heavy in her department, she is the individual who requests assistance from Plant Manager Bielinski. In addition, one witness testified that before an employee was permanently transferred into her department, she was called into Plant Manager Bielinski's office with the employee and the department head of the employee's department and she gave her approval of the transfer.

All three of the witnesses testified that employees go directly to Plant Manager Bielinski to request raises, leaves of absence, and permanent transfers.

The evidence herein shows that while vacation preferences are granted according to seniority, requests for vacation times are submitted to the 13 department heads, two of whom testified that they directly make readjustments if the requests overlap.

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Finally, one of the department heads testified that she has twice recommended employees for jobs in her department and on both occasions Plant Manager Bielinski has told the department head to have the individuals come in and start work. Further, this same department head testified that on two occasions she told Plant Manager Bielinski that employees were not working out and the employees were called in and discharged by Bielinski. In view of the fact that the record herein does not reflect changed circumstances from the evidence presented in Case No. 13-RC-14662 which alter the conclusions reached in the Decision therein and based upon the record as a whole, I find that the following 13 individuals in the following departments are supervisors within the meaning of Section 2(11) of the Act: Helen Brumm, accounts receivable; Cindy Clark, agent file; Lorraine Thompson, billing department; Evelyn Tuttle, bookkeeping; James Flannery, collection department; John Frank, correspondence department; Julie Ann Jaikaitis, dictation department; Pat Hoerner, direct mail; Katherine Willis, filing department; Mr. Nemmers, jobbing department; Mary Kerpan, mailing department; June Zaker, order department; and Ann Wenzel, purchasing department. Accordingly, the instant request for clarification is hereby denied.

APPENDIX B

II. SUPERVISORY ISSUE

The Employer, contrary to the Petitioner, seeks to exclude 13 employees from the unit requested on the grounds that they are the heads of their respective departments and supervisors within the meaning of Section 2(11) of the Act. The Petitioner's position is that they are not supervisors within the meaning of the Act. Furthermore, the Petitioner contends that the 13 disputed employees do the same work as the other employees in their respective departments and that any supervisory duties they perform are merely routine, of a clerical nature, and do not require the exercise of independent judgment.

The contested persons and their respective departments are: Helen Brumm, accounts receivable; Cindy Clark, agent file; Lorraine Thompson, billing department; Evelyn

Tuttle, bookkeeping; James Flannery, collection department; John Frank, correspondence department; Julie Ann Jaikaitis, dictation department; Pat Hoerner, direct mail; Katherine Willis, filing department; Mr. Nemmers, jobbing department; Mary Ketpan, mailing department; June Zaker, order department; and Ann Wenzel, purchasing department. All 13 contested department heads punch the same timeclock, are all hourly paid, all receive the same fringe benefits, have the same vacation policy and the same lunch period. The time cards for all office employees indicate what department that employee is in, and the cards are grouped according to department in the time card rack. The 13 alleged supervisors do not have to maintain any records or reports of the output of their respective departments; however, if the department has anything to do with sales, they record the sale and the amount. The assignment of work is usually done in the morning and varies from day to day. After they check what has to be done, all 13 alleged supervisors segregate the work and assist in working on complicated orders. During the time that the 13 department heads perform work similar to that performed by employees they supervise, they are not relieved from their supervisory responsibilities, they are expected to handle problems that arise in the day-to-day operations.

The Employer's Representative Bielinski testified that all 13 department heads have the authority to effectively recommend the hiring of other employees within their departments; that they have the power to effectively recommend the discharge of employees in their departments; that they have the authority to recommend wage increases which recommendations are usually followed; that they assign employees in their departments to do particular types of work; that they direct the work of the employees in their departments; that they correct and criticize the work of the employees in their departments; that they instruct employees in their departments; that they have the authority to and do authorize employees time off from work or late arrivals; that they enforce the Employer's rules and policies; and finally that they deal with employee complaints at the first level. Bielinski also testified that if one of the 13 department heads recommends that an employee be discharged, that he (Bielinski) engages in further investigation of the reasons for the discharge prior to giving the department head permission to terminate the employee in question.

Applicants for employment as office clerical employees are given applications by the switchboard operator. Plant Manager Bielinski testified that on most occasions he interviews prospective office clerical employees. And, he makes the decision who to hire with the approval and agreement of the department head from whom the prospective employee will work. When someone is being interviewed for a job as an office clerical employee, Bielinski takes them into the general office area and introduces them to the department head. There is no company document which lists department heads as such; however, when employees are hired they are told who their supervisor is. The plant manager deals with department matters through the individual department heads and does not go directly to employees. Though there are no regular meetings of the 13 department heads, as problems arise there are individual meetings between the department heads and the plant manager.

As a matter of policy the Employer does not engage in employee discipline. If an employee constantly violates a company work rule, the department head advises the employee that he will have to be replaced. Generally, under such circumstances, the Employer allows the employee to quit. If an employee calls in sick before 8 a.m. the message is taken by a recording machine, but, if an employee calls in after 9 a.m., the message is taken by the switchboard operator and is relayed to the employee's department head.

The Employer does not have an employee cafeteria, and employees eat their lunch in their work areas.

An individual consideration of contested positions follows:

1. *Accounts Receivable (Helen Brumm)*

Besides Brumm there are five other employees in the accounts receivable department. The department processes approximately four to five thousand orders a week. Checks are received which have to be recorded and cash on delivery payments have to be matched with briefs from United Parcel and recorded.

2. *Agent File (Cindy Clark)*

There are three employees plus Cindy Clark working in the agent file department. The Employer maintains a computerized listing of over 120,000 sales agents, and it is this department's job to administer to these agents. The agent file department in coordination with the advertising department sees to it that if agents inquire about representing the company that they are sent a starter kit.

3. *Billing Department (Lorraine Thompson)*

Six employees including Lorraine Thompson work in the billing department. The employees in the department have three different job classifications; billing typist, rate clerk and order checker. The department calculates rate charges, decides whether an order should be shipped United Parcel or freight or parcel post, and makes out checks to pay shipping costs. The record shows that the billing department once needed a typist. Lorraine Thompson spoke to Bielinski and recommended Lorie Lopez for the job, had her fill out an application, and Ms. Lopez was hired.

4. *Bookkeeping Department (Evelyn Tuttle)*

The bookkeeping department, which includes payroll and accounts payable, is staffed by six employees including Evelyn Tuttle. However, the time cards for all department employees, including payroll and accounts payable are listed under the bookkeeping department. Shirley Rippentrop and Janet Quint perform the department payroll functions. Evelyn Tuttle, who is known as the head bookkeeper by the department employees, pays the bills and accounts payable. Janet Quint, because of her 17 years of employment by the company, often assists and directs Rippentrop in the performance of her work. None of the parties to this matter have raised the issue of supervisory status in regard to Ms. Rippentrop; therefore, based on the record, I find her to have a community of interest with the other office clerical employees and include her in the unit and eligible to vote.

5. *Collection Department (James Flannery)*

The three employees in the collection department control all open accounts, approve credit, and send followup letters to unpaid accounts. Credit approval is granted according to company standards and policies. Bielinski testified that

Flannery approves credit without prior consultation unless he goes beyond the limits of company standards and policies. The work of the two employees in the department, besides Flannery, involves typing, filing, and mailing letters.

6. *Correspondence Department (John Frank)*

The three employees in the correspondence department are responsible for returning all orders and dealing with customer complaints. Basically, the job of the correspondence department is to dictate letters. In addition to the normal dictation of letters which all employees in the department do, John Frank is responsible for handling customer complaints.

7. *Dictation Department (Julie Ann Jaikaitis)*

The primary duty of the dictation department is to transcribe all dictation from the correspondence department. Essentially the employees in that department do typing, with Jaikaitis herself doing some of the typing. There are four employees including Jaikaitis in the department. First thing in the morning Jaikaitis checks the work for the day, separates the work and designates and assigns certain types and amounts of work to the employees in the department. The dictations are done on recording belts, and Jaikaitis distributes these to the employees. Only Jaikaitis takes questions pertaining to dictation to the correspondence department. Jaikaitis once discharged a former employee, Shirley Dery, for absenteeism. Prior to discharging Dery, Jaikaitis consulted with Bielinski, who, after checking the payroll records, gave Jaikaitis permission to terminate Dery.

8. *Direct Mail Department (Pat Hoerner)*

Pat Hoerner and the other three employees in the direct mail department mail catalogs to consumers, process orders whether they are catalog or specialty printing and ship directly to the customer.

9. *Filing Department (Katherine Willis)*

The three employees in the filing department are responsible for filing all orders over \$50, filing all open account orders, and preparing order blanks to correct customer complaints which are then forwarded to the correspondence department for adjustment. In addition to doing the normal filing which the other employees do, Willis does the more complicated filing and resolves problems.

10. *Jobbing Department (Mr. Nemmers)*

The seven employees in the jobbing department receive orders which they edit and place with other companies for production. The department is responsible for seeing that the order is correct and that it is shipped. Furthermore, the department checks the billing and controls the shipping dates on orders.

11. *Mailing Department (Mary Kerpan)*

Mary Kerpan and the other two employees in the department are responsible for opening all mail, detaching any

keypunch cards that are used on the computer and distributing the mail to the proper department in the office.

12. *Order Department (June Zaker)*

June Zaker and the five other employees in the order department edit all printing orders before they are processed, make sure that the orders are properly routed through the office, make sure that cuts for orders are properly matched, and confirm copy for orders. If there are any difficulties or differences in regard to an order it is returned to the correspondence department. An employee who works on register forms is listed in the order department and her timecard is grouped in the timecard rack with the other department. I find this employee to have a community of interest with the other office clerical employees and include her in the unit found herein.

13. *Purchasing Department (Ann Wenzel)*

Ann Wenzel and the two employees who work in the purchasing department are responsible for obtaining all materials necessary for production. The decisions as to what to buy, how much to buy, and at what price are made by the purchasing department. Ann Wenzel makes the decisions. As part of her job Wenzel shops for the lowest price on a given product. Wenzel has the authority to pledge the company's credit, though all bills are paid on a cash basis. Currently there is only one employee, besides Wenzel, working in the department whose duty it is to process and proof invoices. The other employee who worked in the department quit, and plans have been made to hire a replacement in the fall.

Based on the entire record herein, I conclude that 13 department heads are supervisors within the meaning of Section 2(11) of the Act, and I therefore exclude them from the unit found appropriate in Case No. 13-RC-14662.

In reaching this conclusion I rely on the following facts. Although Mr. Bielinski did not testify to any specific incidents where the department heads made the final decisions on the hiring and firing of employees, he did testify to specific incidents where they had effectively recommended the hiring and firing of employees. When employees have been discharged the plant manager has made an independent investigation, but the department head had initially recommended discharge and notified the employee that he was being discharged. The department heads assign work, and the plant manager consults with the department head in matters relating to the department rather than going directly to an employee in the department.

Finally, I note that if these 13 department heads are not found to be supervisors then the only supervisor for the office employees would be the plant manager in a unit of approximately 75 employees. Such a low supervisor to employee ratio is indicative of the supervisory status of the 13 department heads.