

**American Optical Corporation, Safety Products Division and Optical Technicians & Workers Union Local 505, SEIU, AFL-CIO, Petitioner. Case 20-RC-14162**

June 19, 1978

**DECISION ON REVIEW AND DIRECTION**

BY CHAIRMAN FANNING AND MEMBERS JENKINS  
AND MURPHY

On May 13, 1977, the Regional Director for Region 20 issued a Decision and Direction of Election herein finding the appropriate unit to be "all full-time and regular part-time production, maintenance, stock, and shipping employees employed by the Employer at its facility in Fresno, California, excluding office clerical employees, . . ." The Employer filed a request for review of her decision on the grounds, *inter alia*, that she erred in excluding six employees working in the office area as office clerical employees.<sup>1</sup> On June 15, the Board issued a telegraphic order denying the request for review but permitting the six disputed clerical employees to vote under challenge. (Member Murphy joined in denying review but did so without prejudice to the Employer's right to raise anew the issue of its entitlement to documents signed or otherwise adopted by witnesses Payne and Donahue and provided to the Board, should the challenged ballots be determinative of the election results.)

The tally of ballots for the election, conducted on June 17, showed that of approximately 32 eligible voters, 16 cast valid ballots for, and 11 against, the Petitioner. Five of the six disputed clericals cast challenged ballots. The Employer filed objections.

After an investigation, the Regional Director on August 8 issued a Supplemental Decision and Order Transferring Case to the Board. In that decision, she overruled the objections and, noting that neither party presented any new evidence pertaining to the unit placement of the disputed clerical employees, transferred the case to the Board for disposition of the challenges.

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 Employer's request for review of the Regional Director's Supplemental

Decision overruling the objections and concluded that no substantial issues are raised warranting review. Accordingly, the request for review is hereby denied. As to the challenges, the Board has reviewed the entire record, including the arguments made by the Employer in its request for review, and makes the following findings:

The Employer asserts that, because its Fresno operations are highly integrated, all employees are intimately involved in the production process, including those performing clerical functions; that the traditional office clerical functions of bookkeeping and payroll are accomplished at its Southbridge, Massachusetts, headquarters; and that inasmuch as the office area employees are under the same immediate supervision as stock and shipping area employees and, based on undisputed record evidence, work in these other areas on virtually a daily basis, they are plant clerical employees. It contends, therefore, that office area clerical employees must be included in the unit and the challenges to their ballots overruled. We agree.

As found by the Regional Director, the Employer, at its Fresno facility, is engaged in the manufacture and wholesale sale of prescription safety glasses for industrial use. All of the approximately 30 employees there employed work in one building, which is physically divided into three separate areas: office; stock and shipping; and laboratory/production. The Petitioner requested a unit of production, maintenance, and stock employees, excluding shipping and office employees. The Regional Director included two shipping employees because they work in the same area as three stock employees, under the supervision of group leader Evelyn Culver, and have frequent contact with both the stock and production employees.

As to the six office employees, the Regional Director found, and it is undisputed, that their primary responsibility is the processing of customer orders. They work at desks in the separate office area where they answer the telephones, open mail, type orders, and complete the pricing and billing information on the invoices. They are under the immediate supervision of group leader Culver who, as indicated, also supervises the stock and shipping employees. Also, all employees are under the common overall supervision of Betty Barnes, the plant manager; and all enjoy the same fringe benefits, are paid according to the same wage scale, and share common facilities.

Plant Manager Barnes testified at the hearing in Case 20-RC-13965<sup>2</sup> that stock, shipping, and labo-

<sup>1</sup> The Employer also urged that the record be reopened for the production of affidavits, statements, memorandums, signed or otherwise adopted by witnesses Payne and Donahue, asserting that the Hearing Officer had erroneously rejected its requests for such documents.

<sup>2</sup> The parties agreed to incorporate the record in that case which involved a petition by the Petitioner for the same unit as sought herein. That petition was dismissed by the Regional Director after the hearing on the basis of her administrative determination that there was supervisory taint in the showing of interest to support it.

ratory/production employees had occasion to go into the office on a daily basis: stock employees, when questions arose concerning the accuracy of work orders prepared by office employees; shipping employees, when shipping instructions prepared by office employees were incomplete; and production employees, when breakage occurs on a rush job or in response to inquiries concerning a job. She also testified that office employees on occasion, as needed, were assigned to work either in stock, shipping, or production areas. This occurred in the production areas "weekly, daily, whenever the need arises," and in the stock and shipping areas approximately three times a week.

At the hearing in the instant case, the only significant testimony relating to work contacts was presented by Payne, leadperson in the bench area of the laboratory. She testified she had never seen an office employee work in the bench area but had seen office employees in the stock area, without knowing what they did there. She said office employees have occasion to come into the bench area "if they have a job that comes back and they want the power checked . . . or if they're looking for a certain tray number"—and there is no contact of bench employees with office employees in the office area. Also, there was testimony that two named office employees have on occasions worked other areas.

Upon the foregoing and the entire record, we find

that the office employees are more closely akin to plant clerical than to office clerical employees. As indicated, they perform clerical functions which are integral to the production of eyeglasses at this facility and they are under the same immediate supervision as the stock and shipping employees who have been included in the unit. Also, the record establishes, in our opinion, contrary to the Regional Director, that office employees have frequent contacts with unit employees. In these circumstances, we conclude that the community of interest which office employees have with other employees is so close as to preclude their exclusion from the appropriate unit.<sup>3</sup> We find, therefore, that the office area employees are included in the unit and the challenged ballots of five such employees are hereby overruled.<sup>4</sup>

#### DIRECTION

It is hereby directed that the Regional Director open and count the challenged ballots, prepare a revised tally including therein the count of those ballots, and issue the appropriate certification.

<sup>3</sup> See *Jacob Ash Co., Inc.*, 224 NLRB 74 (1976).

<sup>4</sup> In view of our determination to include the office area employees in the unit, as urged by the Employer, we find it unnecessary to pass on its renewed request that the hearing be reopened for production of statements of Payne and Donahue in the possession of the Board which it alleges are germane to the issues herein.