

**The Capital Times Company, Employer-Petitioner
and Local 64, Madison Newspapers Guild, AFL-
CIO-CLC. Case 30-UC-118**

January 10, 1978

DECISION ON REVIEW

**BY CHAIRMAN FANNING AND MEMBERS
JENKINS AND PENELLO**

On April 26, 1977, the Regional Director for Region 30 issued his Decision and Order in the above-entitled proceeding in which he clarified the existing bargaining unit, as requested by the Employer, *inter alia*, by excluding the head librarian, Diane Woodstock, on the basis that she is a supervisor. Thereafter, the Union timely filed a request for review of the Regional Director's decision on the grounds that, in resolving certain of the Employer's clarification requests, he made erroneous findings of fact and conclusions of law. The Employer filed opposition thereto.

On August 22, 1977, the Board by telegraphic order granted the request for review only as to the issue raised concerning the head librarian and denied it in all other respects.¹ Thereafter, the Employer and the Union filed briefs 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 with respect to the issues under review, including the briefs on review, and makes the following findings:

The Regional Director found that Head Librarian Woodstock assigns work to her assistants, schedules their hours, grants time off, approves vacation time requests, and enforces the city editor's work rule requiring that the library be covered until the deadline time of 12:30 p.m. He also found that she has effectively recommended the hire of an assistant librarian and has recommended a replacement for absent employees. On the bases of these findings, the Regional Director concluded that Woodstock is a supervisor.

The Employer is engaged in the publication of an afternoon newspaper in Madison, Wisconsin, and the adjacent rural areas. Since 1934 the Employer has recognized the Union as the collective-bargaining representative for all editorial department employees, excluding one editor, one executive editor, one associate editor, one managing editor, one city editor, and two confidential employees. The latest contract expired December 8, 1976, and, at the time

of the hearing herein, the parties were negotiating for a new contract.

Diane Woodstock has been president of Local 64 since 1974 and is currently a vice president of its parent international union. The record shows that she has been a librarian since 1965 and the head librarian since 1969, when it was agreed among the three librarians, with Executive Editor Maraniss' approval, that she would be head librarian and work 4 days per week, and the other two librarians would each work 3 days per week.

The Union contends that in making his findings the Regional Director ignored the testimony of Woodstock. The Union argues that, in the light of that testimony, there is not sufficient evidence in the record that she should be removed from the existing unit as a supervisor. We agree.

Woodstock reports to City Editor Zweifel. She and the other librarians cut stories from the Capital Times daily papers and file them in accordance with established categories. Whenever new categories are needed the three librarians jointly determine them. They also pull the files for the reporters and members of the public. The Employer's managing editor, Robert Meloon, testified that Woodstock determines when the other librarians will work, grants time off, approves the vacation schedule, and has effectively recommended individuals for hire. However, Woodstock testified that she and the other librarians decide collegially which days each will work, which floating holidays each will take, and when each will take time off. Even after the work schedule is set, the other librarians sometimes exchange days or hours with each other without notifying Woodstock. They also work out their vacation schedule subject to the approval by City Editor Zweifel.

Shortly after Woodstock became head librarian, one of the other librarians quit. Woodstock recommended that Maraniss hire Judy Klongland. Maraniss interviewed Klongland and hired her without further reference to Woodstock. Woodstock also recommended to Managing Editor Meloon that Virginia Christianson, who was once the Employer's head librarian, be used on a temporary basis as a replacement for librarians who are absent because of illness, vacation, or other reasons. Although Woodstock has been required to get permission from the city editor each time she wishes to employ Christianson, she testified that she has not been refused such permission when she has a valid reason for making the request.

The Employer's last three city editors (Maraniss, Meloon, and Zweifel) promulgated the rule that the library must remain open until after the 12:30 p.m.

¹ Chairman Fanning, dissenting in part, would also have granted review as to the other individuals involved in the underlying proceeding.

deadline for submission of stories by reporters. Woodstock testified that she notified the other librarians of this rule but did not in any way enforce it.

It appears from the testimony of Woodstock, which is contrary to the conclusionary testimony of Meloon, and from our reading of the record as a whole that Woodstock does not responsibly direct assistant

² Although the Employer at the outset of the hearing contended, in the alternative, that Woodstock is a managerial employee, it introduced no evidence—and we find none in the record—to support that contention.

librarians in their work, effectively recommend their hire, or make work assignments or other decisions affecting their status. Accordingly, we conclude, contrary to the Regional Director, that the record evidence does not support a finding that Woodstock is a supervisor as defined in the Act. We shall therefore deny the Employer's clarification request as to Woodstock.²

Chairman Fanning agrees with his colleagues' conclusions as to Woodstock, but would not restrict the Board's review solely to this issue. See fn. 1, *supra*.