

Air Filter Corporation and District 10, International Association of Machinist and Aerospace Workers, AFL-CIO. Case 30-RC-2980

August 30, 1977

DECISION AND DIRECTION

BY MEMBERS JENKINS, MURPHY, AND
WALTHER

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 the challenge to the ballot of Elmer E. Manske in an election held on December 24, 1976,¹ and the Hearing Officer's report recommending disposition of same.² The Board has reviewed the record in light of the exceptions and briefs and hereby adopts the Hearing Officer's findings and recommendations.

The Employer is engaged in the fabrication of air filters and employs approximately 26 to 29 employees. The job tasks utilized in the operations are both routine and repetitious, requiring only approximately 15 minutes of training and very minimal supervision thereafter.

Elmer Manske has worked for the Employer for 23 years, serving during the past 4 or 5 years as a leadman in the assembly department which has eight other employees. Manske and the five leadmen in the various other departments are under the direct supervision of Gary Peterson, the Employer's vice president and general manager. Each of the other leadmen either voted without challenge or had challenges to their ballots withdrawn at the hearing below.

On a typical day, upon reporting to work Manske copies pertinent data from a stack of assembly orders supplied by the front office and then parcels out the orders to the other assembly department employees. These assembly orders are initially prepared under the direction and supervision of Peterson who maintains a production schedule for the various orders. Manske also checks timecards, noting whether employees forgot to punch in or out and correcting errors. He shifts employees to different functions as dictated by production schedules and as requested by other leadmen. Manske, likewise, receives additional workers when the requirements of his department so dictate and other leadmen can spare the employees. The record indicates that Manske spends

approximately 10 percent of his time performing the above duties and the other 90 percent of his time is spent performing rank-and-file work of spot welding, stamping names on filters, and assembling filters alongside the other employees.

Manske does not have the authority to hire, fire, lay off, or suspend employees, settle grievances, or effectively recommend such actions. While he may advise his superiors with respect to the necessity of overtime in order to timely complete an order, he is not vested with the authority to grant overtime. In the past Manske served as a conduit between management and the employees and, as such, upon Peterson's request he notified two employees of their discharge for bad attendance, but did not make the termination decision; he has also relayed employee requests for a pay raise but, upon management's denial of those requests, did not intercede on the employee's behalf. While Manske is one of four leadmen who have keys to open the plant in the morning, he does not wear a uniform distinguishing him from the other employees, nor does he attend supervisory meetings. Finally, Manske receives the same fringe benefits as the other nonsupervisory employees.

On the basis of the foregoing we find that Manske is not a supervisor within the meaning of the Act. In so concluding, we note the absence of authority to affect the employment status of the other employees and the fact that he spends the substantial portion of his workday performing rank-and-file work alongside the other assembly department employees. With respect to the transferring of workers between the various departments, the record evidence fails, in our view, to demonstrate that Manske and the other leadmen exercise a degree of independent judgment in this regard which is sufficient to establish that they are supervisors within the meaning of the Act. We are particularly persuaded by the fact that Manske does not appear to possess any more authority than the other leadmen who were either permitted to cast unchallenged ballots or had such challenges withdrawn. In view of the repetitious and routine nature of the work involved, we conclude that leadman Manske is not required to exercise independent judgment to such an extent sufficient to deem him a supervisor. Accordingly, we find that he is not a supervisor within the meaning of Section 2(11) of the Act, and shall direct that his ballot be opened and counted.

¹ The election was conducted pursuant to a Stipulation for Certification Upon Consent Election. The tally was 13 for, and 10 against, the Petitioner; there were 3 challenged ballots, a number sufficient to affect the results.

² During the hearing conducted on February 10, 1977, Petitioner withdrew its challenges to the ballots of employees Mark Eckert and

Lawrence Larscheidt. Thereafter, on the same day, the Regional Director for Region 30 served a revised tally of ballots on all parties to the proceeding. The revised tally was 13 for, and 12 against, the Petitioner; there remained 1 challenged ballot, sufficient to affect the results.

DIRECTION

It is hereby directed that the Regional Director for Region 30 shall, pursuant to the Board's Rules and Regulations, Series 8, as amended, within 10 days of the date of this Decision and Direction, open and count the ballot of Elmer E. Manske, prepare and cause to be served on the parties a revised tally of ballots, and thereafter issue the appropriate certification.

MEMBER MURPHY, dissenting:

Unlike my colleagues, I would find that leadman Elmer E. Manske is a statutory supervisor and that the challenge to his ballot, therefore, must be sustained.

Manske has worked for the Employer for approximately 23 years, including the last 4 or 5 as a leadman in the assembly department. He is thus one of the Employer's most senior and experienced employees. Although the work orders for the assembly department are prepared in the front office, Manske parcels out the assembly orders among the eight employees in that department. Manske also checks the timecards of the assembly employees and corrects any errors before transmitting them to the front office. Manske shares a desk with another leadman in the assembly area. Although Manske has no specific authority to hire or fire employees or to grant pay increases, the record shows that, at the direction of Vice President Peterson, he has notified

two employees that they were discharged for poor attendance. He has also transmitted requests for pay increases to Peterson. Periodically other leadmen will go to Manske if they need additional workers and Manske will transfer such workers from the assembly department if he can spare them. Similarly, Manske polls other leadmen as to whether they can spare certain employees when he needs additional help. In so doing, Manske clearly exercises independent judgment and discretion. The fact that Manske is not the highest paid employee in the assembly department is irrelevant. Nor is it significant in the circumstances here that Manske spends the majority of his working time performing rank-and-file work and supervises only part of the time.

Contrary to my colleagues, I also find irrelevant the fact that four other leadmen were either permitted to vote without challenge or had the challenges to their ballots withdrawn at the hearing. Their supervisory status is not in issue here, and the parties' apparent agreement that the other leadmen are not supervisors surely can have no bearing on the question which is before the Board; namely, whether leadman Manske is a supervisor.

In view of the foregoing and the entire record herein, I would find that Manske exercises sufficient independent judgment to render him a supervisor within the meaning of Section 2(11) of the Act. Accordingly, I would also sustain the challenge to his ballot.