

A. B. Dick Company and Communications Workers of America, AFL-CIO, Petitioner. Case 7-RC-14090

June 17, 1977

DECISION ON REVIEW AND DIRECTION OF ELECTIONS

BY CHAIRMAN FANNING AND MEMBERS
PENELLO AND WALTHER

On March 2, 1977, the Acting Regional Director for Region 7 issued a Decision and Direction of Election in the above-entitled proceeding in which he directed an election in a unit, as sought by Petitioner, of all full-time and regular part-time employees of the Employer at its Southfield, Michigan, facility, including service department employees, warehouse employees, and office clerical employees, but excluding sales employees, professional employees, confidential employees, guards and supervisors as defined in the Act. Thereafter, in accordance with the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Employer filed a timely request for review of the Acting Regional Director's decision on the ground, *inter alia*, that by including office clerical employees with service department employees in a single unit he made erroneous factual findings and departed from officially reported precedent.¹

On March 24, 1977, the National Labor Relations Board by telegraphic order granted the request for review solely with respect to the inclusion of the nine office clerical employees in the unit and stayed the election. No briefs on review have been filed.

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 reviewed the entire record in this case with respect to the issue under review and makes the following findings:

The Employer is a Delaware corporation engaged in the manufacture, sale, and service of word-processing, copying, and duplicating equipment and the sale of related supplies. At the Employer's Southfield, Michigan, branch facility there are approximately 23 sales representatives (whom neither party seeks to include), 29 service representatives, 3 service and parts clericals,² 2 warehouse employees, and 9 business office clerical employees.

All employees work under the overall supervision of the branch manager. The nonsales employees are all hourly paid, receive the same fringe benefits, and work approximately the same hours.

The service representatives work under the immediate supervision of a service manager and are primarily responsible for servicing and maintaining equipment sold by the Employer. The nature of their duties necessitates that they spend an overwhelming proportion of their work hours away from the Southfield facility servicing equipment at the customer's location.³ The service representatives report directly to customer locations rather than to the branch facility. The only time they are regularly required to report to the Employer's facility is once a week for approximately an hour to turn in their paperwork and receive their paychecks. The record discloses that they may spend an average of 3-5 hours a month in the branch facility working on equipment. When present at the facility, they do not report to the business office area, except in the infrequent instance that they are called in to repair a piece of equipment there. The service representatives who work on the electronic equipment sold by the Employer are required to take courses in basic electronics, and attend an 8-week course at the Employer's training center in Niles, Illinois. Service representatives who service the less sophisticated, basically mechanical equipment receive approximately 6 months of on-the-job training. Service representatives also are authorized to sell maintenance contracts to customers on behalf of the Employer, and they receive, as a bonus, 9 percent of the contract price in addition to their other compensation.

The service and parts clericals and warehouse employees perform their functions in the Employer's branch facility. As indicated by their titles, their duties relate directly to the work performed by the service representatives and include, respectively, processing service orders, supplying parts, and shipping and receiving equipment and materials.

The office clerical employees occupy the following positions: order and billing clerk, accounts receivable clerk, switchboard operator, and administrative clerk. All of their work is performed in the business office located in a separate area of the facility. These employees are primarily responsible for preparing purchase orders for incoming goods, processing sales orders from customers, and billing customers for

¹ The Employer urged that two separate units were appropriate: a unit of the servicemen, service clerks, and parts clerk and a separate unit of the office clerical and warehouse employees.

² The parties are in agreement regarding the inclusion of the service and parts clericals.

³ The shop man, 1 of the 29 service representatives, performs most of his work in the repair shop at the branch facility.

sales and service. The office clericals are under the direct supervision of the office manager.⁴

Analogizing the Employer's operations to a small retail establishment, in which the Board has an established policy favoring overall units,⁵ the Acting Regional Director included the office clerical employees in the same unit with the service representatives, relying on the fact that all of the nonsales employees work at or report to the same facility and share common hours, basic methods of pay, fringe benefits, and upper-level supervision.

The Employer contends that the Acting Regional Director erred in including the office clericals in the same unit with the other employees. We find merit in the Employer's contentions.

The record discloses that the office clerical employees receive separate immediate supervision, are located apart from other employees in the Employer's facility, and have insubstantial contact with the other employees included in the unit. As indicated, the service representatives normally do not work at the Employer's facility and report there only once a week for a brief period of time. Employee interchange between the office clericals and the other employees is negligible. The only instance of interchange occurred approximately 2 years ago when a service representative transferred into the office clerical section.

In view of the nature of the Employer's branch operations described above, we conclude that the office clerical employees are improperly included with the other employees. The Acting Regional Director's reliance on the Board's policy regarding retail establishments is, in our view, inapplicable here. The basis for this policy favoring overall units in retail establishments is the integrated nature of

⁴ Although the office manager also has responsibility over the warehousemen, they have separate immediate supervision.

⁵ *South Station Liquor Store Inc., d/b/a Berenson Liquor Mart*, 223 NLRB 1115 (1976).

⁶ *Interstate Supply Company*, 117 NLRB 1062 (1957); cf. *Charles Bruning Company, Inc.*, 126 NLRB 140, 142 (1960), where the Board, in an enterprise similar to that of the Employer here, found an overall unit appropriate

such operations and the resulting allied work interests of the employees in such establishments.⁶ Such functional integration does not exist here. Moreover, the office clerical employees in this case perform distinct traditional office work, apart from the other employees, and have limited contact with them.

On the basis of the foregoing and the record as a whole, we find that the office clerical employees at the Employer's Southfield branch facility share a community of interest separate from that of the service and warehouse employees, and we shall direct separate elections among employees in the following units which we find appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

UNIT A

All service department employees and warehouse employees of the Employer employed at its facility located at 22110 Telegraph Road, Southfield, Michigan, excluding all other employees, professional employees, confidential employees, guards and supervisors, as defined in the Act.

UNIT B

All office clerical employees of the Employer employed at its facility located at 22110 Telegraph Road, Southfield, Michigan, excluding all other employees, professional employees, confidential employees, guards and supervisors, as defined in the Act.

[Direction of Elections⁷ and *Excelsior* footnote omitted from publication.]

because of the stipulation of the parties, a situation not existing in the instant case.

⁷ As the elections being directed are in units that differ in composition from the unit originally sought by Petitioner, the Regional Director shall determine whether Petitioner's showing of interest is sufficient in each unit before proceeding with the elections therein.