

In the Matter of WELLS FARGO CARLOADING COMPANY (CHICAGO STATION), EMPLOYER and OFFICE EMPLOYEES INTERNATIONAL UNION, LOCAL No. 28, A. F. L., PETITIONER

*Case No. 13-RC-32.—Decided July 20, 1948*

DECISION  
AND  
DIRECTION OF ELECTION

Upon a petition duly filed, a hearing was held before a hearing officer of the National Labor Relations Board. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-man panel consisting of the undersigned Board Members.\*

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.
2. The labor organization named below claims to represent employees of the Employer.
3. A question affecting commerce exists concerning the representation of employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.
4. The parties agree on the inclusion within the unit of all general office workers, switchboard operators, and various categories of clerks at the Employer's Chicago station. There is a dispute as to the cashier, the chief rate clerk, the secretary to the station manager, salesmen, and dock foremen, whom the Petitioner would include and the Employer would exclude.<sup>1</sup>

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\*Chairman Herzog and Members Murdock and Gray.

<sup>1</sup>The parties agree to exclude the manager and assistant manager of the station, as supervisors.

The cashier and chief rate clerk are the heads of two of the five departments into which the Employer's organization has been divided.<sup>2</sup> The Employer contends that they are supervisors and must, therefore, be excluded from the unit. In a memorandum from the Chicago station manager to the two department heads, in partial effectuation of the reorganization of the Chicago station, it is stated that they are in complete charge of their respective departments and are expected to make recommendations on hiring and firing employees in their departments. Even before the issuance of the memorandum to the cashier, however, he had, on at least one occasion, made an effective recommendation with respect to dismissal of an employee in the cashier's department. We find that the cashier and chief rate clerk are supervisors, and we shall therefore exclude them from the unit.

The manager's private secretary aids him, in a confidential capacity, in whatever labor relations work is required at the Chicago station. We shall therefore exclude her as a confidential employee.<sup>3</sup>

There are four salesmen at the station, who solicit freight-forwarding business. They are under the direct supervision of the manager, and are required to report to the office both morning and afternoon, or otherwise advise the manager of their activities. They are infrequently required to do work in the office when any of the office sections are short-handed. The Employer contends that the salesmen should be excluded from the unit as managerial employees, because they represent the Employer in its relationships with customers. We see no reason, however, for deeming the salesmen to be managerial employees, as they do not participate in devising or effectuating the Employer's policies. The salesmen's work, in our opinion, is not so divergent from that of the office workers, nor are their respective interests so opposed, as to make a single unit in the Employer's station inappropriate. We shall therefore include the salesmen.

At the date of the hearing, there were two employees, designated as dock foremen, located at the railroad terminal, performing clerical operations connected with the loading and unloading of freight being forwarded by the Employer.<sup>4</sup> The dock foremen exercise no authority over any employees of the Employer. Likewise, they do not supervise the freight handlers, who are railroad employees, although they may

<sup>2</sup> A reorganization along departmental lines was put into effect at the Chicago station only 3 days before the instant hearing was held, but we are satisfied that this was merely part of a reorganization of several branches, which had been planned long before and was not dependent on the filing of the petition herein

<sup>3</sup> *Matter of Art Metal Construction Company*, 75 N. L. R. B. 80.

<sup>4</sup> The reorganization plan for the Chicago station contemplates that the dock employees will constitute a separate department, under a separate supervisor. Until this department is set up, we cannot determine whether the person in charge of the dock is to be considered a supervisor.

call errors or omissions of these railroad employees to the attention of the railroad foreman, who in turn issues any necessary orders. The Employer contends that the two dock foremen should be excluded from the unit because they are supervisors and because, as the Employer's sole representatives at the dock, they are managerial employees. Neither contention is persuasive. Only the railroad foreman may direct freight handling, while the dock foremen are limited to the clerical operations incidental to loading and unloading, and to checking the movement of the freight in accordance with the shipping documents covering it.<sup>5</sup> We shall include the two dock foremen in the unit.

The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act: all clerks, switchboard operators, bill strippers, cartage clerks, billers, stenographers, O. S. & D. and tracing clerks, rate clerks, relief operators, general office workers, claim clerks, manifest clerks, salesmen, and dock foremen employed by the Employer at its Chicago station, excluding the secretary to the station manager and all supervisors.

#### DIRECTION OF ELECTION

As part of the investigation to ascertain representatives for the purposes of collective bargaining with the Employer, an election by secret ballot shall be conducted as early as possible, but not later than 30 days from the date of this Direction, under the direction and supervision of the Regional Director for the Region in which this case was heard, and subject to Sections 203.61 and 203.62 of National Labor Relations Board Rules and Regulations—Series 5, among the employees in the unit found appropriate in paragraph numbered 4, above, who were employed during the pay-roll period immediately preceding the date of this Direction of Election, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, but excluding those employees who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, and also excluding employees on strike who are not entitled to reinstatement, to determine whether or not they desire to be represented, for purposes of collective bargaining, by Office Employees International Union, Local No. 28, A. F. L.

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<sup>5</sup> A railroad employee signs for incoming freight, and the railroad is subject to claims for improper handling of freight; it has an even more direct interest than the Employer in seeing that the physical handling of the freight is properly done.