

IN the Matter of AMERICAN DISTRICT TELEGRAPH COMPANY OF MISSOURI, EMPLOYER and INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL, LOCAL #1, PETITIONER

Case No. 14-RC-553.—Decided June 6, 1949

DECISION
AND
DIRECTION OF ELECTION

Upon a petition duly filed,¹ a hearing was held before Glenn L. Moller, 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-member panel [Chairman Herzog and Members Houston and Gray].

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

1. The Employer is engaged in commerce within the meaning of the Act.

2. The Petitioner is a labor organization claiming to represent employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer, within the meaning of Section 9 (c) (1) and Section 2 (6) and (7) of the Act.

4. The appropriate unit:

The Petitioner seeks a unit of employees of the Employer, including employees in the operating and plant departments and the screen factory, but excluding the traffic clerk, clerk and porter in the screen factory, commercial and sales department employees, other clerical employees, and all supervisors as defined by the Act. The Employer contends that all employees sought by the Petitioner are guards within the meaning of Section 9 (b) (3) of the Act and that, as such, they may not be represented by the Petitioner, a labor organization which represent employees other than guards. The Employer contends further that, in any event, its screen factory employees should not be

¹ The petition and other formal papers were amended at the hearing to show the correct name of the Employer.

included in the same unit with employees in the operating and plant departments.

The Employer, a wholly owned subsidiary of American District Telegraph Company, is engaged in St. Louis, Missouri, in the business of protecting the property of its subscribers against fire, theft, and unlawful entry. For such protection, the Employer, through its plant department, installs and maintains various types of automatic alarm systems on the property of its subscribers, and, through its operating department, the Employer investigates the alarm signals received on its control board from the subscriber's property. The Employer also manufactures in its screen factory, burglar alarm screens and cabinets for safes. The Employer uses approximately 5 percent of these screens in the installation of its burglar alarm service for its subscribers. The remainder is purchased by other subsidiaries of its parent corporation located throughout the United States. The operating department, plant department, and screen factory are located in separate buildings within a mile radius.

The operating department: Approximately 33 employees in the Employer's operating department watch the control station, investigate alarms on the property of subscribers, and provide "watchmen supervision." These employees, classified as guard-operators, are deputized by the Board of Police Commissioners and are licensed to carry guns for their personal safety and self-defense. They do not arrest or prefer charges against unauthorized persons on the property of subscribers but they may detain such persons until the arrival of the police. Guard-operators carry a small kit of tools for the purpose of possible resetting or repairing of alarms. If an alarm is damaged so that it cannot be repaired temporarily, the guard-operator protects the subscriber's property until the alarm is fixed by an employee of the Employer's plant department or until other guard provisions are made by the subscriber. If a subscriber's regular watchman fails to report his presence at a predesignated time through the Employer's call system, the Employer's guard-operator will take over the watchman's patrol until the subscriber can make other guard arrangements.

For reasons set forth in a recent Decision² involving guard-operators performing substantially identical function in another subsidiary of the parent corporation, we find that employees in the Employer's operating department are plant guards primarily engaged in the protection of property against fire and theft and that they are guards

² *Matter of American District Telegraph Company*, 83 N. L. R. B. 517. For reasons stated in their dissenting opinion, in the *ADT* case, Chairman Herzog and Member Houston would not find the men in this Employer's operating department "guards" within the meaning of Section 9 (b) (3) of the Act and would include them in the bargaining unit. However, they feel bound by the majority opinion in that case and therefore join in this decision.

within the meaning of Section 9 (b) (3) of the amended Act. We shall, therefore, exclude them from the unit hereinafter found appropriate.

The plant department: The approximately 28 employees in the Employer's plant department install, maintain, and inspect the Employer's various types of alarm systems. These employees have a knowledge of electricity and of the Employer's alarm system. They work on a shift basis. They repair and reset alarms, and may accompany guards for this purpose. Plant department employees do not carry arms or respond to alarms.

Two night repairmen in the plant department, however, are authorized to carry arms for their protection. In emergencies they respond to alarms. At such times they are working under the supervision of the operating department. They are employed principally, however, as repairmen and not as guards, within the meaning of the Act.³

The screen factory: The approximately 25 employees in the Employer's screen factory manufacture burglar alarm screens and cabinets for safes. They are not skilled employees. They work from 7:30 a. m. to 3:30 p. m. and not on a shift basis. Experience in the screen factory does not qualify employees to work in the plant department. Screen factory employees have no contact with and there is no interchange with employees in the plant department. The screen factory and plant department are located in separate buildings, about 1 mile apart, and are under separate immediate supervision, subject to a superintendent who is in over-all charge of both operations. There is no history of collective bargaining with respect to any of the Employer's employees.

In view of the foregoing, and upon the entire record in this case, we find that a unit confined to employees of the Employer's plant department is appropriate.⁴

We find that all employees employed in the Employer's plant department, including the night repairmen, but excluding clerical employees and supervisors⁵ as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining.

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

³ *Matter of Shelbyville Desk Company, Inc.*, 82 N L R B. 1230

⁴ *Matter of Foremost Dairies, Inc.*, 80 N L R. B 764 and cases cited therein.

⁵ The Employer and the Petitioner agree that the three employees classified as maintenance supervisor, assistant foreman, and construction supervisor, do not possess supervisory authority, and therefore, we shall include them in the unit

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, as amended, 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 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 International Brotherhood of Electrical Workers, AFL, Local #1.