

In the Matter of THE VISKING CORPORATION, EMPLOYER *and* LODGE
325, INTERNATIONAL ASSOCIATION OF MACHINISTS, PETITIONER

Case No. 32-RC-214.—Decided July 18, 1950

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Andrew P. Carter, hearing officer. 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 Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Herzog and Members Reynolds and Styles].

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 labor organization involved claims to represent certain employees of the Employer.¹

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.²

4. The appropriate unit:

The Petitioner seeks to represent a unit composed of all maintenance mechanics and their helpers employed at the Employer's North

¹The Employer contends that the petition must be dismissed because the Petitioner's constitution does not expressly admit to membership the type of employees involved herein. As we have frequently refused to inquire into a labor organization's constitution in the absence of proof that it will not accord effective representation, we find this contention without merit. *United States Gypsum Company*, 80 NLRB 779; *Baldwin Locomotive Works*, 76 NLRB 922.

²For the reasons stated in *Advance Pattern Company*, 80 NLRB 29, we find no merit in the Employer's contention that no question concerning representation exists because it did not expressly decline to recognize the Petitioner as the bargaining representative of its employees. The Employer also questioned the Board's power to entertain the petition on the grounds that the Petitioner's initial claim for recognition did not specifically assert exclusive majority status and that the petition is not supported by an adequate showing of interest. Because the petition as filed satisfies our administrative requirements, and as the showing of interest in a representation proceeding is not subject to collateral attack (See *O. D. Jennings & Co.*, 68 NLRB 516), we find that this contention is also without merit. In any event, we are administratively advised that the Petitioner has made a sufficient showing of interest among the employees involved.

Little Rock, Arkansas, plant, excluding all other employees. Alternatively, it stated that it would represent these employees together with the laborers attached to the same department, or any grouping of these employees which the Board might find appropriate. Relying primarily upon the integrated character of its entire operations, the Employer contends that any unit which does not embrace both the production and maintenance employees is inappropriate. It also argues that in any event, the watchmen and the laborers must be joined with the mechanics as they are under the same supervision.

The Employer, a Virginia corporation, is composed of three divisions within the United States and a subsidiary in Canada. The only division involved in this proceeding, the North Little Rock plant, was constructed in 1947 to develop and produce a nonwoven fabric of all cellulose construction. For the production of cloths and filters, the plant is geared to a continuous process operation, requiring introduction of raw materials and chemicals at various stages and resulting in an uninterrupted flow of the completed product. Although the plant still conducts extensive developmental research, during the 12-month period preceding the hearing it produced finished articles, such as wiping cloths, filters, and cheese cloth, valued in excess of \$1,000,000.

All the employees sought by the Petitioner are included in the works engineering department, which embraces all the plant's maintenance employees.³ The only other employees found in this department are the laborers and watchmen, discussed below, and a group of draftsmen and engineers, whose unit placement was not put in issue at the hearing.⁴

Within the works engineering department, the mechanics and helpers are grouped into 3 subdivisions, 1 under the textile foreman, another under the maintenance foreman, and the third under the powerhouse foreman. Six mechanics and 1 helper work under the textile foreman. They clean, adjust, and repair the picker and carding machines that separate and sort the fibers used in the production process. They have a small room, separated from the operating line area, where they perform most of their duties, although they occasionally work on machines on the operating line. Sixteen mechanics and one helper work under the maintenance foreman. They

³ The remaining departments are the operating, sales, office, chemical, and purchasing departments.

⁴ The only information contained in the record respecting the draftsmen and engineers is an uncontradicted statement by the Employer's plant manager that they are professional employees.

periodically clean, oil, grease, and repair machines on the operating line and make emergency repairs on all machines in the plant. They also develop new machines and modify existing ones. Approximately 7 of these mechanics, classified as mechanics first class, work as electricians, carpenters, painters, and pipe fitters, and were employed because of these special skills. All of these employees use the powerhouse as a workroom, but they make some emergency repairs and do routine cleaning, oiling, and greasing on machines in the production areas. Seven mechanics, four of whom are classified as watch engineers, work under the powerhouse foreman. They are responsible for the maintenance and repair of the process and utility lines and equipment, and also check and adjust the flow of steam, water, and brine used in production. They have their headquarters in the powerhouse, but work part of the time throughout the plant wherever adjustments or repairs of process equipment and lines are needed.

Nine mechanics from the works engineering department, three from each of the subdivisions, are assigned to the three operating shifts, so that emergency repairs may be made at any time during the 24-hour operations. Although an operating foreman may suggest to the shift mechanics the need for repairs or adjustments, the quality of the work performed by them is the responsibility of the works engineering department foremen. All other maintenance employees work on a single-shift basis.

The laborers in the works engineering department load and unload raw materials, aid in the cleaning of process lines and trenches, and move production equipment and raw fibre to the picker machines. They work under the direct supervision of the maintenance foreman of that department.

The watchmen in the work engineering department make routine rounds of the plant, punch time clocks at designated times, and correct any conditions that require attention. They also cut and pack waste material, but the record shows that their duties primarily are those traditionally performed by watchmen.

The Employer resists the establishment of any unit limited to maintenance employees because of the frequent association of these employees with operating personnel during their work and because of the degree of integration in the plant operations. It is true, as the Employer asserts, that a number of the maintenance mechanics here involved do a considerable amount of work on the production machinery at regular intervals to insure uninterrupted production and that they often work side by side with the machine operators. The record also shows, however, that these maintenance mechanics, charged with the duty of servicing, maintaining, and repairing the plant machinery

and equipment, perform a distinctive function. In addition to their work on the production machinery, a substantial portion of their time is devoted to the development of new machinery, a task clearly unrelated to the production process. They are separately supervised and are paid a higher rate than production employees (the top rate for line operators is \$1.29, while the top rate for mechanics is \$1.56 per hour). During the 20-month period preceding the hearing, there were no transfers out of the works engineering department to the operating department and only two from the latter to the former. Finally, although the Employer has no apprenticeship program, mechanics progress within their classification, helper to second-class mechanic to first-class mechanic. On the record as a whole, therefore, we do not believe that the work of the maintenance employees is so integrated with the Employer's production process as to require denial of the request of the maintenance employees for representation apart from the production employees.

During the hearing, the Petitioner amended its petition to exclude the six laborers from its proposed unit. As the laborers devote the major portion of their time to assisting the maintenance mechanics and are under common supervision with them in the same department, we shall include them in the unit hereinafter found appropriate.⁵ Because the works engineering department watchmen are charged primarily with the duty of punching time clocks on regular tours of guard duty, we find, contrary to the Employer's contention, that they are guards as defined in the Act and we shall therefore exclude them from the unit.⁶

In conclusion, we believe that the maintenance mechanics, helpers, and laborers in the works engineering department constitute a homogeneous, readily identifiable, and functionally distinctive departmental group such as we have frequently held may constitute a separate bargaining unit, particularly where, as here, there has been no history of bargaining on a broader basis.⁷ Accordingly, we find that all maintenance mechanics first class, maintenance mechanics second class, group leaders,⁸ helpers, and laborers in the Employer's North Little Rock, Arkansas, plant, but excluding all other employees, office and clerical employees, watchmen, guards, professional employees, and supervisors as defined in the Act, constitute a unit appropriate

⁵ *International Harvester Company, Melrose Park Plant*, 87 NLRB 1101.

⁶ *Cherry-Burrell Corporation*, 88 NLRB 945.

⁷ *E. I. DuPont de Nemours & Co.*, 88 NLRB 941; *Borden's Soy Processing Company*, 88 NLRB 1208; *St. Regis Paper Co.*, 84 NLRB 454.

⁸ The record shows, and the parties agree, that group leaders, classified as mechanics first class, neither possess nor exercise any supervisory authority.

for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.

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 thirty 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 Section 203.61 and 203.62 of National Labor Relations Board Rules and Regulations, among the employees in the unit described in paragraph numbered 4, above, who were employed during the payroll period immediately preceding the date of this Direction of Election, including employees who did not work during said payroll 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 Lodge 325, International Association of Machinists.