

The Employer has four trucks which are used primarily to transport material from the warehouses to the plant or to transport employees between the plant and the warehouse. These vehicles are operated by tiering equipment and motor truck operators. Generally the same individuals drive the trucks, but they also devote about 25 percent of their time to driving other vehicles in the plant or doing other assigned work, and other individuals sometimes operate the trucks. All the Employer's products are delivered by contract carrier and not by the Employer's trucks.

The work of the shipping division and of the receiving and stores division employees is frequently performed in the various areas of the manufacturing and materials department and, as necessity requires, these employees are interchanged with production division employees. We find that the work of the employees sought by the Teamsters is interrelated with that of the other production and maintenance employees with whom they are closely allied in interest, and that, upon the entire record herein, a separate unit of these employees would not be appropriate. Accordingly, we shall dismiss the petition in Case No. 35-RC-623.

We find that all production and maintenance employees of the Employer at its New Albany, Indiana, plant, and Jeffersonville, Indiana, warehouses, excluding office and clerical employees, inspectors, checkers, shipping clerks, receiving and stores clerks, guards, professional employees, and all supervisors as defined in the Act, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.¹¹

Order

IT IS HEREBY ORDERED that the petitions in Cases Nos. 35-RC-577, 578, 579, and 623, be, and they hereby are, dismissed.

[Text of Direction of Election omitted from publication in this volume.]

¹¹ The parties are in agreement as to the composition of an over-all unit.

HOME BENEFICIAL LIFE INSURANCE CO. *and* INSURANCE AND ALLIED WORKERS ORGANIZING COMMITTEE, CIO, PETITIONER. *Case No. 32-RC-366. April 3, 1952*

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 Anthony J. Sabella, hearing 98 NLRB No. 160.

officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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.

4. The Petitioner seeks a unit composed of all industrial agents employed by the Employer in the State of Tennessee.² The Employer contends that the only appropriate unit is one which most nearly approximates a company-wide unit.³ The agents sought by the Petitioner are licensed by the State of Tennessee, and by that State only. They work only within the State, and do not interchange between any other office of the Employer. Although the Board has held that "the ultimately appropriate unit in the insurance business is on a company-wide basis,"⁴ the unit sought by the Petitioner is State-wide in scope,⁵ and no labor organization is seeking to represent agents of the Employer on a broader basis. We therefore find, upon the entire record, that the unit sought by the Petitioner is appropriate and that the Employer's contentions to the contrary are without merit.

We find that all industrial agents employed by the Employer in the State of Tennessee, excluding office clerical employees, cashiers, managers, superintendents, special superintendents, and all other supervisors as defined in the Act, constitute a unit appropriate for

¹ National Federation of Insurance Agents Council, A. F. of L., represented certain employees within the unit sought by the Petitioner but, although served with notice, did not appear at the hearing in this case.

² The Employer has district offices in Johnson City, Knoxville, Harriman, Chattanooga, Nashville, Jackson, Dyersburg, and Memphis, Tennessee. The record shows that although the Bristol office is designated by the Employer as the Bristol, Virginia, office, a superintendent and five agents from that office work exclusively in Tennessee, and meet all the requirements set forth below and imposed by the State of Tennessee on industrial insurance agents.

³ See the bargaining history set forth in *Home Beneficial Life Insurance Company, Inc.*, 89 NLRB 392.

A recent decertification proceeding involved the agents in the following 15 of the Employer's 44 district offices. Baltimore, Maryland; Washington, D. C.; Petersburg, Newport News, Norfolk, Portsmouth, Staunton, Lynchburg, Roanoke, Charlottesville, Suffolk, and Farmville, Virginia; and Knoxville, Harriman, and Chattanooga, Tennessee. The agents in these district offices had been represented by National Federation of Insurance Agents Council, A. F. of L., which was decertified in that proceeding. See *Home Beneficial Life Insurance Company*, 97 NLRB No. 191.

⁴ *John Hancock Mutual Life Insurance Company*, 82 NLRB 179.

⁵ See *Metropolitan Life Insurance Company*, 56 NLRB 1635 and 1642; *Peoples Life Insurance Company*, 72 NLRB 1406; *Home Beneficial Life Insurance Company, Inc.*, 89 NLRB 392.

the purposes of collective bargaining within the meaning of Section 9 (b) of the Act.⁶

[Text of Direction of Election omitted from publication in this volume.]

⁶ As the election hereinafter directed is not in the unit or subdivision in which the decertification election referred to above was held, we shall include in the unit the agents in those district offices within the State of Tennessee which were covered by the decertification petition. See Section 9 (c) (3) of the Act; cf. *Robertson Brothers Department Store, Inc.*, 95 NLRB 271.

UNION ASBESTOS AND RUBBER COMPANY *and* UNITED TEXTILE WORKERS
OF AMERICA, AFL. *Case No. 34-CA-176. April 4, 1952*

Decision and Order

On September 12, 1951, Trial Examiner J. J. Fitzpatrick issued his Intermediate Report in the above-entitled proceeding, finding that the Respondent had engaged in and was engaging in certain unfair labor practices in violation of Section 8 (a) (1) and (3) of the National Labor Relations Act, and recommending that the Respondent cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. The Trial Examiner also found that the Respondent had not violated the Act by laying off and refusing to reinstate Lena Simpson Moore and consequently recommended dismissal of the complaint as to her. Thereafter, the Respondent, the General Counsel, and the Union filed exceptions to the Intermediate Report. The General Counsel also filed a supporting brief.¹

The Board² has reviewed the rulings made by the Trial Examiner and finds that no prejudicial error was committed. The rulings are hereby affirmed.³ The Board has considered the Intermediate Report,

¹ The Respondent's request for oral argument is hereby denied because the record and the exceptions and brief, in our opinion, adequately present the issues and the positions of the parties.

² Pursuant to the provisions of Section 3 (b) of the Act, the Board has delegated its powers in connection with the case to a three-member panel. [Chairman Herzog and Members Houston and Peterson.]

³ At the conclusion of the presentation of his case, the General Counsel moved that the complaint be amended so as to include an allegation that the Respondent had refused to bargain collectively with the Union in an appropriate unit. The Trial Examiner denied the motion. After the issuance of the Intermediate Report, the General Counsel filed a motion with the Board for permission to amend the complaint in the respects noted above and to reopen the record and remand the case to the Trial Examiner for the purpose of conducting a hearing upon the issues raised by such proposed additional allegations. Under Section 102.35 of the Board's Rules and Regulations—Series 6, authority is vested in the Trial Examiner to dispose of procedural matters such as motions to amend pleadings. On the basis of the record in the case, we are unable to conclude that in denying the General Counsel's motion to amend the complaint the Trial Examiner abused the discretion vested in him. Moreover, we do not agree with the General Counsel that the present circumstances warrant granting the motion at this time. The Trial Examiner's ruling is therefore affirmed and the pending motion denied.