

PUERTO RICO GLASS CORPORATION ¹ and UNION DE EMPLEADOS DE SUPERVISION DE LA FABRICA DE CRISTAL, IND., PETITIONER. *Case No. 24-RC-444. December 23, 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 Roy J. Cohen, 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 Styles and Peterson].

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.²

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 comprised of the batch foreman, four packing shift foremen, quality inspector, four lynch machine shift foremen, working foreman, job change crew leader, two carton shift foremen, three ACL shift foremen, yard and tank repair foreman, maintenance foreman, and electrician foreman at the Employer's plant.³ The Employer contends that the unit is inappropriate because all of the above employees are supervisors within the meaning of the Act, and, in any event, that any of the above employees who are not supervisors should be included in the existing production and maintenance unit, from which they are presently excluded, rather than in a separate unit. The representative of the production and maintenance unit⁴ appeared at the hearing only for the purpose of

¹ The name of the Employer appears as amended at the hearing.

² The Employer refused to stipulate that the Petitioner is a labor organization within the meaning of the Act. It appears from the record that the Petitioner is a labor organization within the meaning of Section 2 (5) of the Act, and we so find.

³ In its petition the Petitioner sought a number of other job categories in addition to those listed above in the text. The parties stipulated, and we find, that the employees in these additional categories are supervisors, except for one, the bottle designer, whom they agreed to exclude from the unit on other grounds. None of these employees will therefore be included in the unit.

⁴ Union de Empleados de la Industria de Cristal, Local No. 1792, Amalgamated Trade Union Council ILA-AFL, currently represents the production and maintenance unit and has a collective bargaining agreement with the Employer expiring January 5, 1953, covering the unit. This union was certified on May 14, 1951, pursuant to a consent election (Case No. 24-RC-188, not reported in the printed volumes of Board decisions).

disclaiming any interest in representing the employees sought by the Petitioner, and did not intervene in the proceeding.⁵

We find that the batch foreman, packing shift foremen, lynch machine shift foremen, carton shift foremen, ACL shift foremen, yard and tank repair foreman, maintenance foreman, and electrician foreman are all supervisors within the meaning of the Act. All of them responsibly direct the work of employees under them. In addition, they effectively recommend the retention, transfer, or discharge of probationary employees; they have authority to approve or refuse requests for leaves of absence and vacation; they have authority, which they exercise, to transfer, and effectively to recommend permanent promotions, and other changes in the status of the employees within their departments.

There remains for consideration the status of the quality inspector, working foreman in the mould shop, and job change crew leader. The *quality inspector's* job is to inspect random samples of bottles produced by the various machines in the production department. He reports defects to the glass technologist, who then orders appropriate corrective action. He infrequently acts as substitute for the packing shift foremen, whom we have found to be supervisors. However, his exercise of the functions of a supervisor is so sporadic as not to be sufficient, in our opinion, to constitute the quality inspector a supervisor within the meaning of the Act.⁶

The *working foreman* in the mould shop is responsible to the mould shop supervisor, who supervises all the employees in the mould shop. The number of employees in that shop varies from 13 to 16. The working foreman has more skill and experience than any of the other employees in the shop. He trains new employees and helps less skilled employees with difficult work. He relays orders to the other employees from the mould shop supervisor, but does not responsibly direct their work. During a substantial part of his time he does work similar to that of the other employees in the mould shop. He does not have the power to take action, or make recommendations, affecting the status of other employees. Although he is in charge of the department on infrequent occasions when the supervisor is absent, we find that this working foreman is not a supervisor within the meaning of the Act.⁷

The *job change crew leader* is responsible to the production superintendent. At the time of the hearing, there was only one other employee in his department and there have never been more than three

⁵ There is also a unit of clerical employees at the Employer's plant currently represented by the Union de Empleados de Oficina Independiente de Puerto Rico Glass Corporation. This union did not appear at the hearing, nor did it at any time express an interest in the proceedings.

⁶ *Forney Engineering Company*, 88 NLRB 204.

⁷ *Forney Engineering Company*, *supra*.

other employees in it. Most of his work is manual. At present the other employee in the department has a higher hourly pay rate and more experience than the job change crew leader. The job change crew leader receives detailed orders from the production superintendent, which he transmits to the other employee in the department. He has no authority to take action, or make recommendations, affecting the status of other employees. We find that he is not a supervisor within the meaning of the Act.⁸

The skills, interests, and working conditions of the foregoing three employees are substantially similar to those of the employees in the production and maintenance unit. However, as the representative of the production and maintenance unit, from which they were excluded, does not desire to represent them, and no other union except the Petitioner seeks to represent them, we find, that a unit limited to the quality inspector, working foreman in the mould shop, and the job change crew leader at the Employer's plant at Guaynabo, Puerto Rico, is an appropriate unit within the meaning of Section 9 (b) of the Act.⁹

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

⁸ *The Fl-Back Company, et al.*, 85 NLRB 959.

⁹ *Jordan Marsh Company*, 85 NLRB 1503.

STANDARD BRANDS INCORPORATED, AND ITS SUBSIDIARY, THE FLEISCHMANN DISTILLING CORPORATION *and* BREWERY WORKERS' INTERNATIONAL UNION, LOCAL No. 42, CIO, PETITIONER. *Case No. 2-RC-4848. December 23, 1952*

Decision and Direction of Elections

Upon a petition duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Norman A. Cole, 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 Houston and Murdock].

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.