

ever, the Petitioners do not seek a single unit of all employees engaged in the lithographic production process, but rather seek to split such employees into two separate units. However, as the record fails to establish that the employees sought by the Petitioners are groups of craftsmen working as such, units of such employees are not appropriate on a craft basis.⁷ Nor does the record establish that either of the separate units sought is appropriate on any other basis. Accordingly, as the units sought are inappropriate for the purposes of collective bargaining, we shall dismiss the petitions.

[The Board dismissed the petition.]

⁷ Cf. *Oswego Falls Corporation*, 112 NLRB 92; *Waldorf Paper Products Company*, 100 NLRB 618; *American Can Company*, 110 NLRB 3, 6-7.

Gill Glass & Fixture Company and Michael J. Wambach, Petitioner and International Brotherhood of Electrical Workers, Local 1841, AFL-CIO. *Case No. 4-RD-156. November 7, 1956*

DECISION AND DIRECTION OF ELECTION

Upon a petition for decertification duly filed under Section 9 (c) of the National Labor Relations Act, a hearing was held before Chester S. Montgomery, hearing 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 National Labor Relations Act.

2. The Petitioner, an employee of the Employer, asserts that the International Brotherhood of Electrical Workers, Local 1841, hereinafter referred to as the Union, is no longer the bargaining representative as defined in Section 9 (a) of the Act of the Employer's employees.

3. The Union moved to dismiss the petition on the grounds (1) that the Petitioner is fronting for a labor organization which has not complied with the filing requirements of 9 (h) of the Act, (2) that the Petitioner is a supervisor, and (3) that the unit as described in the petition is inappropriate. We deny the motion for reasons stated below.

As to the first ground, the record shows that the employees held 4 or 5 meetings during lunch periods and 1 meeting after working hours. At these meetings donations were received and used to employ an attorney to represent them in this proceeding. Five employers were asked to represent the employees as a committee, and 3 of the 5 deposited the money in their joint bank account. The committee discussed with the Employer the checkoff of dues and asked that the Employer withhold the dues deducted under the union-shop

agreement with the Union until the issue raised by this petition is resolved. It appears to the Board that the employees have banded together for the immediate purpose of obtaining a decertification election and not for the purpose of forming a labor organization. Accordingly, we find that the employee group is not a "labor organization" within the meaning of Section 2 (5) of the Act.¹

As to the second ground urged by the Union, that the Petitioner is a supervisor, the record shows that for a year the Petitioner worked at the Employer's plant as a machine operator and then became an instructor in the machine shop where there are 13 employees under the immediate supervision of the machine shop foreman. The Petitioner instructs the machine shop employees in the use of machines, the preparation of fixtures before assembly, the handling of tools, and, generally, the proper method of performing the work. Under the direction of the machine shop foreman, he assigns various jobs to the employees and sees that the work is properly done. He has no authority to discipline, is paid at an hourly rate as are all nonsupervisory employees, receives about 10 cents an hour higher pay than the highest paid machine shop employee, and has been included in the present bargaining unit. In view of the small number of employees in the machine shop under the acknowledged supervision of a shop foreman, and the failure of the record to show that the Petitioner has authority to responsibly direct or make effective recommendations concerning the discipline of the employees or to effect a change in their status, we find that the relationship of the Petitioner to the other employees with whom he works is that of a more skilled employee to those less skilled and that he is not a supervisor within the meaning of the Act.²

We find that 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 decertification election in a unit of all production employees including paint sprayers and helpers, wirers, assemblers, machine operators, and helpers. The Union urges the inappropriateness of the unit and objects to the processing of this petition during the pendency of an unfair labor charge. The charge against the Employer in Case No. 4-CA-1428, however, was withdrawn as of July 23, 1956. The Employer apparently agrees with the Petitioner as to the appropriateness of the unit.

Article II, section 3, of the recently terminated bargaining contract between the Employer and the Union provides:

The Employer recognizes the Union as the sole and exclusive bargaining agency, with respect to wages, hours and working condi-

¹ See *Perfect Circle Corporation*, 114 NLRB 725; *The Hertner Electric Company*, 115 NLRB 820

² See *United Screw & Bolt Corporation*, 106 NLRB 1308, 98 NLRB 953, 956.

tions for its hourly rate production, shipping and maintenance employees excluding office, sales, administrative, professional, executive employees and supervisors within the meaning of the Labor Management Relations Act of 1947, as amended.

Thus, the contract unit on its face includes, in addition to the production employees, the maintenance and shipping employees. It would appear, then, from the wording of the petition that the Petitioner is attempting to sever the production employees from an established unit. Such action the Board will not permit as it will direct a decertification election only in the recognized or certified unit.³ However, the record contains no evidence that there are maintenance and shipping employees at the Employer's plant. The recently expired bargaining contract, referred to above, provides for a wage increase for *all* employees, and the schedule of rates attached to the contract lists only five classifications which are substantially those classifications set out in the petition. Throughout the hearing, the Petitioner reiterated that he was representing *all* the employees in the filing of the decertification petition. In view of this ambiguity, we assume that the Petitioner is actually requesting an election in the established unit composed of all the employees presently employed by the Employer. Accordingly, we shall direct an election in the unit as described in the contract. If we have not correctly interpreted the Petitioner's request, we shall permit the Petitioner to withdraw the petition within 5 days from the date of this Direction.

We find that 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 hourly rated production, shipping, and maintenance employees, excluding office and sales employees, administrative, professional, and executive employees, guards, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

* *Campbell Soup Company*, 111 NLRB 234; *Minneapolis Star and Tribune Company*, 115 NLRB, 1300.

The Babcock & Wilcox Company and International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, AFL-CIO, Petitioner. *Case No. 16-RC-1927. November 7, 1956*

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 John F. Funke, hear-
116 NLRB No. 212.