Food Fair Stores of Florida, Inc.[1] ***and*** **Retail Clerks International Association, Local 1636, AFL–CIO, Petitioner**

Food Fair Stores of Florida, Inc. ***and*** **Amalgamated Meat Cutters & Butchers Workmen of North America, Local 282, AFL–CIO, Petitioner.** *Cases Nos. 12–RC–183 and 12–RC–184. November 25, 1957*

DECISION AND DIRECTION OF ELECTIONS

Upon petitions duly filed under Section 9 (c) of the National Labor Relations Act, a consolidated hearing was held before Claude B. Calkin, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.[2]

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 [Members Murdock, Rodgers, and Bean].

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

1. The uncontradicted testimony in the record indicates that the Employer is engaged in the operation of 270 stores in the States of New York, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, and Florida. We find that the Employer is engaged in commerce within the meaning of the Act.[3]

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[1] At the hearing the parties who made appearances stipulated that the name of the Employer should be corrected to read as it appears in the caption.

[2] After the hearing, the Employer, who failed to make an appearance, filed with the Board's Washington office, a petition to remand and reopen proceeding, alleging that because the original notice of hearing and the order rescheduling hearing were sent to the individual stores involved in this proceeding rather than to the Employer's central office, the Employer was unable to arrange for its director of personnel and public relations to appear at the hearing. It contends further that a reopened hearing is necessary in order to take evidence relating to the voting eligibility of certain employees. Registered return receipts introduced into evidence disclose that the original notice of hearing was received by two of the stores on August 17 and by the third on August 18. The notice set a hearing date of August 22. On that day the Regional Director received a telegram signed by a representative of Petitioner, Meat Cutters, indicating its agreement to a 2-week postponement of the hearing. The Employer concedes in its petition to remand and reopen proceeding that it was informed by a Mr. Sheurich, vice president of Petitioner, Meat Cutters, on August 22, that the hearing had been postponed. Mr. Sheurich sent the telegram to the Board's Regional Director indicating agreement by all parties to a postponement of the hearing to September 5. The registered return receipts attached to the order rescheduling hearing, which were introduced into evidence, disclose that the order was received by two of the stores involved on August 23 and by the third on August 24. In these circumstances we think the Employer had definite notice of the rescheduled hearing. Accordingly, as the other issues raised by the Employer can be disposed of without the necessity of a hearing at this time, we deny the petition to remand and reopen proceeding.

[3] In accordance with our usual policy we have accepted the parties' correction of the name of the Employer. The Employer, in its petition to remand and reopen the hearing, did not question the correctness of the name appearing on the petitions, to wit: Food Fair Stores, Inc. *Standard & Poor's Corporation Records, F–K,* page 6467, reveals that the Employer is a wholly owned subsidiary of Food Fair Stores, Inc., which is engaged in the operation of a chain of retail supermarkets in the States of New York, Connecticut,

2. The labor organizations involved claim to represent certain employees of the Employer.

3. Questions affecting commerce exist 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. There is no dispute as to the scope of the units requested by the Petitioners. Each Petitioner seeks a unit encompassing employees at the Employer's stores located at 1665 Gulf-to-Bay Boulevard, Clearwater, Florida; 4119 Gandy Boulevard, Tampa, Florida; and Highway 19, 30th Street N., St. Petersburg, Florida. Evidence in the record discloses that 1 individual supervises the operations of all 3 stores; employees for all 3 stores are hired out of a single personnel office, and that employees interchange from store to store.

We find the following groups of employees at the stores listed above constitute appropriate units for the purposes of collective bargaining within the meaning of Section 9 (b) of the Act:[4]

1. All employees including employees working in the apparel department under the name of Sav-Fair, the drug department, the hardware department, snack bar employees, all regular part-time employees, but excluding meat department employees, shoe department employees in the Clearwater store, guards, watchmen, professional employees, store managers, and all supervisors as defined in the Act.[5]

2. All meat department employees including all regular part-time employees,[6] but excluding supervisors as defined in the Act and all other employees.

[Text of Direction of Elections omitted from publication.]

New Jersey, Pennsylvania, Delaware, Maryland, and Florida. In accordance with our decision in *Food Fair Stores, Inc.*, 114 NLRB 521, in which we asserted jurisdiction pursuant to our present jurisdictional policies, we find that it will effectuate the policies of the Act to assert jurisdiction herein. Cf. *Plant City Welding and Tank Company*, 118 NLRB 280.

[4] The units accord with stipulation of the parties.

[5] Employees of the shoe department of the Clearwater store, which is leased to an independent operator, are excluded. The Employer contends in its petition to remand and reopen proceeding, that there is some question as to the eligibility of department managers and head cashiers. The record does not afford a sufficient basis for determining the question. Accordingly, we shall permit them to vote in the elections ordered herein, subject to challenge. Petitioner, Retail Clerks, would include office clerical employees, but does not know if any are employed in the three stores involved herein. If there be any office clerical employees employed in these three stores, they are included in the unit. The Employer suggests that baggers and parcel pickup attendants should not be eligible to vote in the election. However such employees are customarily included in retail store units, and we include them in the unit. They are therefore eligible to vote.

[6] The parties stipulated that regular part-time employees in the meat departments are those working 20 hours a week. We accept the stipulation. See *The Great Atlantic and Pacific Tea Company*, 118 NLRB 1276.