

The Gemex Corporation and International Jewelry Workers Union, AFL-CIO, Local 50, Petitioner*

The Gemex Corporation and District #47, International Association of Machinists, AFL-CIO, Petitioner. Cases Nos. 22-RC-101 and 22-RC-112. March 5, 1958

DECISION AND DIRECTION OF ELECTIONS

Upon separate petitions duly filed under Section 9 (c) of the National Labor Relations Act, as amended, a consolidated hearing was held before Herman Gelband, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.¹

Pursuant to the provisions of Section 3 (b) of the National Labor Relations Act, the Board has delegated its powers in connection with these cases to a three-member panel [Chairman Leedom and Members Bean and Fanning].

Upon the entire record in these cases, the Board finds:

1. The Employer is engaged in commerce within the meaning of the National Labor Relations Act.

2. The Employer would not stipulate that either of the Petitioners is a labor organization within the meaning of the Act. It contends further that International Jewelry Workers Union, AFL-CIO, Local 50, herein called Jewelry Workers, should not be permitted to represent the employees it seeks because of allegations by the AFL-CIO that the Jewelry Workers was exploiting certain workers and violating the AFL-CIO code of ethics. However, we do not deem these matters relevant to the issues here presented as it appears they concern internal affairs of labor organizations and the Board has held that it will not concern itself with such matters.² The record discloses that both Petitioners exist for the purpose of dealing with employers on behalf of their employees concerning such matters as wages, grievances, hours, and other conditions of employment. Accordingly, we find that they are labor organizations within the meaning of the Act. These labor organizations claim to represent certain employees of the Employer.

*On April 2, 1958, the Board ordered that the request of Local 50 to withdraw its petition in Case No 22-RC-101 be granted with prejudice to its filing a new petition for a period of 6 months from the date of this order, unless good cause is shown why the Board should entertain a new petition filed prior to the expiration of such period. The Regional Director approved the request of Local 50 for permission to withdraw from the ballot in Case No 22-RC-112.

¹ The hearing officer referred to the Board motions by the Employer to dismiss the petitions because of alleged violations by the Petitioner in Case No 22-RC-101, of the AFL-CIO code of ethics, and because the unit sought in Case No. 22-RC-112 is inappropriate. For the reasons indicated hereinafter these motions are denied.

² See *Imperial Reed & Rattan Furniture Co.*, 117 NLRB 495 and cases cited therein.

3. Questions affecting commerce exist 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. In Case No. 22-RC-101, the Jewelry Workers seeks an election in a unit of all production and maintenance employees excluding tool and die employees. In Case No. 22-RC-112, Local #47, International Association of Machinists, AFL-CIO, herein called Machinists, requests a separate election among all employees in the toolroom. The Employer contends that an overall production and maintenance unit including the toolroom employees is the only appropriate unit. It is clear that the overall production and maintenance unit is appropriate for collective bargaining. We shall, therefore, consider whether a separate unit of toolroom employees is also appropriate. There is no history of collective bargaining at this plant.

The Employer is engaged at its plant in Union, New Jersey, in the manufacture of metal and leather watch bracelets and attachments. All operations are housed in a 1-story building with no dividers or partitions between the various departments except that the toolroom, located in 1 area of the plant, has a partial partition erected primarily to prevent work and dust from flying into the adjacent departments.

There are located in the toolroom the machines usually found in a toolroom such as lathes, milling machines, drill presses, shapers, grinders, heating furnaces, and related equipment. Employed in the toolroom are approximately 30 toolmakers, 2 apprentices, 1 heat treater, 1 steel engraver, 1 mechanic, and 1 tool crib attendant. The tool makers work at individual benches and furnish their own precision tools such as micrometers, squares, and calipers. They set up their work from sketches, drawings, and samples and work to close tolerances. The apprentices are serving an 8,000-hour or 4-year period to qualify as journeyman toolmakers. The heat treater is responsible for hardening the tool steels after they have been fabricated. The steel engraver makes hubs and forcers and sinks the dies. The attendant for the tool crib, which is located in the toolroom and is maintained principally for use of the toolroom employees, keeps tools in order, gives them out as needed, and performs some machine work. The record does not disclose what specific duties are performed by the machinist but he has been employed in the toolroom for over 10 years. The employees in the toolroom do not interchange with other employees and are under the immediate supervision of two toolroom foremen who occupy an office in the toolroom area and supervise no other employees. In view of the foregoing, we find that the toolroom employees constitute a functionally distinct and homogeneous depart-

mental group of employees of the type the Board customarily finds appropriate.³

There are other employees in the plant who have classifications similar to those in the toolroom and who on occasion use the machines in the toolroom.⁴ However, they are employed in other departments under separate supervision and do not affect the appropriateness of the toolroom unit sought.⁵ Accordingly, we shall make no final unit determination at this time, but shall direct that separate elections be held in the following voting groups at the Employer's Union, New Jersey, plant:

(a) All toolroom employees including toolmakers, apprentices, heat treaters, steel engravers, mechanics, and tool crib attendants, but excluding all other employees and supervisors as defined in the Act.

(b) All production and maintenance employees, excluding all toolroom employees, office clerical and professional employees, salesmen, watchmen and guards, foremen, foreladies, executives, and supervisors as defined in the Act.

If a majority of the employees in voting group (a) select the Machinists, that group will be taken to have indicated its desire to constitute a separate bargaining unit, which the Board, under those circumstances, finds to be appropriate for purposes of collective bargaining, and the Regional Director conducting the elections is hereby instructed to issue a certification of representatives to such union for such unit. In that event, if a majority of employees in voting group (b) select the Jewelry Workers, then the Regional Director is instructed to issue a certification of representatives to that union for a unit of such employees, which the Board under the circumstances finds to be appropriate for purposes of collective bargaining.

However, if a majority of the employees in voting group (a) do not vote for the Machinists, such group will be appropriately included in the same unit with the employees in voting group (b) and their votes will be pooled with those in that voting group.⁶ If a majority of employees in the pooled group select the Jewelry Workers, the Regional Director is instructed to issue a certification of representatives to that union for such unit, which under such circumstances the Board finds to be appropriate for purposes of collective bargaining.

[Text of Direction of Elections omitted from publication.]

³ *Union Steam Pump Company*, 118 NLRB 689; *Warner Electric Brake & Clutch Company*, 111 NLRB 268; *John Deere Planter Works of Deere & Company*, 107 NLRB 1497.

⁴ These include 4 toolmakers in the production department, 3 toolmakers in the industrial department, and 2 machinists in the maintenance department.

⁵ *Kennard Corporation*, 114 NLRB 150; *Spaulding Fibre Co., Inc.*, 111 NLRB 237, 239.

⁶ If the votes are pooled, they are to be tallied in the following manner: The votes for the Machinists shall be counted as valid votes, but neither for nor against the union seeking the production and maintenance employees; all other votes are to be accorded their face value, whether for representation by a union or for no union.