

ingly, we find that they are not supervisors within the meaning of the Act, and we shall include them in the unit.

The Petitioner contends that an individual named Owen Smith is head of the room service waiters, and in this position exercises supervisory authority. The Employer denies the existence of any such category as room service headwaiter, and testified that Owen Smith did not have or exercise any supervisory authority. In view of this direct conflict of testimony, we shall make no finding as to the supervisory status of Owen Smith, but shall allow him to vote subject to challenge.

Accordingly, we find that the following employees at the Employer's Arlington Hotel, Hot Springs, Arkansas, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees, including the telephone operators, room clerks, front clerks, key and information clerks, mail clerks, file clerks, cashiers, food checkers, the social hostess, the publicist, inspectresses, dining room waiter captains, and the room service waiters, but excluding the seasonal employees, bathhouse department employees, general executive office employees, the auditor, guards, and all supervisors<sup>11</sup> as defined in the Act.

[Text of Direction of Election omitted from publication.]

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<sup>11</sup> The record shows, and there is no dispute, that the manager, resident manager, two assistant managers, bell captains, chief telephone operator, chief bellman, head porter, housekeeper, head of the night cleanup crew, taproom manager, chief engineer, head painter, chef, catering manager, headwaiter, laundry manager, head printer, head barber, beauty shop manager, and sundry and liquor store managers, all have the authority to hire and discharge employees, or effectively to recommend such action. Accordingly, we find that they are supervisors within the meaning of the Act.

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**Leland Electric Company, Division of American Machine and Foundry Company, and Leland Airborne Products, Division of American Machine and Foundry Company and International Union of Electrical, Radio and Machine Workers, AFL-CIO, Petitioner.** *Case No. 9-RC-3726. February 2, 1960*

### 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 Mark Fox, 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 Leedom and Members Bean and Jenkins].

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.

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 of all technicians and model shop employees of the engineering department of the Employer's plant at Vandalia, Ohio, which engages in the manufacture of defense electronic equipment. The Petitioner has, for several years, represented the production and maintenance employees of the Vandalia plant and of the Employer's electric motor manufacturing plant in nearby Dayton, Ohio, in a single bargaining unit.<sup>1</sup> The parties have stipulated, and record testimony indicates, that employees in certain classifications are technical employees<sup>2</sup> and that other employees are professional employees. There remain, however, certain job classifications which are in dispute. The Employer contends that these employees, sought by the Petitioner as technical employees, constitute an unrepresented fringe group entitled to a self-determination election as to whether they should be included in the existing production and maintenance unit. It is contrary to Board policy, however, to include technical employees in a production and maintenance unit where a party objects to their inclusion. The Petitioner contends that coordinators in the Employer's service organization are sales personnel and not technical employees as contended by the Employer. It appears from the record that all employees in the disputed classifications work in an area which is physically separated from the production area of the plant, that they do not interchange with production or maintenance employees and that they work in close association with, and under the technical direction of, the Employer's professional engineering personnel.

#### The Disputed Classifications

*Modelmakers:* These employees come within the Employer's occupational rating description of experimental mechanic which requires, in addition to the equivalent of 4 years of high school, advanced technical training and 7 or more years' experience. They make apparatus

<sup>1</sup> The petition requested a single unit embracing engineering department technicians at two plants of the Employer, one located at Vandalia, Ohio, and the other at Dayton, Ohio. The record indicates that, while petition was pending, the Employer ceased being the owner of the Dayton plant. The petition, insofar as it relates to the Dayton plant of the Employer is, therefore, dismissed.

<sup>2</sup> The parties agree that blueprint operators, draftsmen, time-study estimators, material and production clerks, Liaison Engineer Ross, Design Engineer Kimble, Materials and Process Engineer Bowers, Tool Design Engineer Wallingford and Methods Engineers Rice, Stites, and Strader are technical employees.

used in research work and assist in the construction of prototypes. At least 75 percent of their time is devoted to development, design, and experimental work and they work in close association with, and under the direction of, the Employer's design engineers who are concededly professional employees. We find that these employees are technical employees within the meaning usually accorded that term by the Board.<sup>3</sup>

*Laboratory technicians:* Laboratory technicians construct prototypes from blueprints furnished them by the engineering department, conduct electrical and mechanical tests, design and build special test equipment and parts, and recommend modifications in models and prototypes. They work in the model shop under the immediate supervision of the model shop foreman and the general supervision of the chief engineer. They receive a weekly salary and do not work under close supervision. We find them to be technical employees.<sup>4</sup>

*Assemblers:* The Employer classifies assemblers as experimental mechanics, Class A, a classification for which it seeks employees with the equivalent of 4 years' high school, plus advanced trades training or apprenticeship and 7 or more years' experience. They work almost exclusively on development work, building and assembling experimental models, prototypes, and parts for electronic defense mechanisms, and assist the Employer's project engineers on a nonproductive and nonrepetitive basis. Like other employees in the model shop, they are salaried, work under the general supervision of the chief engineer in an area which is physically separated from the production area of the plant. We find, as the Petitioner contends, that assemblers are technical employees.<sup>5</sup>

*Winders:* These employees work in the model shop under immediate supervision of the model shop foreman, who is responsible to the chief engineer. The model shop, in which they work, is separated from the area in which production and maintenance employees work by a wire mesh partition. The record indicates that, although winders employed in the production and maintenance unit utilize some of the same basic skills in the performance of certain similar function, the winders, employed in the model shop, must handle a wider variety of coils so that they have a substantially wider range of operation and a greater degree of diversification. Unlike winders in the production area, these employees work from plans and sketches which frequently are incomplete and they must often fabricate the bobbins on which they perform their winding operations. They work in proximity to, and under direction of, the Employer's design engineers, who are

<sup>3</sup> *General Electric Company*, 105 NLRB 921, 924; *Latton Industries of Maryland, Incorporated*, 125 NLRB 722.

<sup>4</sup> *Convair, a Division of General Dynamics Corporation (Fort Worth)*, 120 NLRB 322, 325.

<sup>5</sup> *Wm. R. Whittaker Co., Ltd.*, 117 NLRB 339, 345.

conceded to be professional employees. They are salaried as are other employees of the model shop whereas winders in the production and maintenance unit are paid on an hourly basis. At least one of them was promoted to the model shop from the production and maintenance unit. On the basis of the foregoing, we find them to be technical employees and shall include them in the unit herein found to be appropriate.

*Short order inspectors:* These employees inspect the raw materials and components used, the machines and equipment employed, and the final products turned out in the Employer's engineering section. Since the products are not standardized, short order inspectors must exercise independent judgment in setting up tests to determine the quality of components and finished products. We find that short order inspectors, like other employees of the model shop, are technical employees.

*Testers:* Testers work in the engineering test area, which is immediately adjacent to the prototype and short order facilities of the plant and enclosed partly by a wire mesh partition and partly by cement blocks. Under the general supervision of the chief engineer they perform development tests on engineering prototypes, qualification or proof tests on engineering prototypes, acceptance tests on short order apparatus, and certain verification tests required either by the customer or by the Employer's quality control department. They operate from test letter requirements prepared by project engineers and use a greater variety of testing devices and equipment than do the employees in the production test, who work from a fixed test setup which does not change from day to day. Engineering testers frequently change their test setups and make new test setups in the course of their work. On the basis of the foregoing, we find them to be technical employees.<sup>6</sup>

*Coordinators:* The Employer contends that the data coordinator, the spare parts coordinator, and the aircraft service coordinator, all of whom are employed in the service organization, which is part of the sales department, are technical employees. Petitioner contends they are sales employees. The data coordinator engages in the preparation of technical handbooks to accompany the Employer's product. He obtains quotations from outside sources for the preparation of such handbooks and editorially reviews copy prepared within the organization to insure that format and contents conform to applicable specifications.

The spare parts coordinator performs a similar function with respect to small parts. He processes spare parts orders to insure that spare parts are packed for shipment in accordance with military

<sup>6</sup> *Westinghouse Air Brake Company, et al.*, 119 NLRB 1391, 1394.

packing specifications and checks all engineering changes of products against spare parts requirements. The aircraft service coordinator evaluates reports of malfunctioning of the Employer's product which are received from either the Employer's quality control section or from customers. He must technically evaluate reports and present his findings to customers, by correspondence or otherwise. On occasion, the aircraft service coordinator goes into the field and does a service overhaul or modification in order to evaluate a malfunction.

All three coordinators must be able to read, interpret, and apply military specifications to their particular job requirements. All are salaried and their job contacts are chiefly with the Employer's engineers. Their duties require a high degree of technical competence and are primarily technical in nature. We find, contrary to the contention of the Petitioner, that they are technical rather than sales employees.

*Design research department:* Petitioner would include in its requested unit, and the Employer would exclude therefrom, three employees of the research laboratory in the classifications of laboratory technician, modelmaker, and winder. These employees work under the supervision of a design engineer and have frequent work contacts with other engineers. They are salaried, their direction is very general, and they do not work on standardized units or perform repetitious operations and they must fabricate many of the tools and parts utilized in their operations. We find that these employees, like their counterparts in the model shop, are technical employees.

*Quality control:* These employees perform electrical and mechanical testing on prototypes and short order units. They are salaried, they work under general supervision, exercise independent judgment in formulating tests, and frequently must devise their own setups to check components and subassemblies of components. We find that they are technical employees.<sup>7</sup>

*File clerk and reproduction operator:* The employee in this classification works in a room with the two blueprint machine operators. She maintains the files of engineering prints, test data, and engineering data, and operates a number of types of duplicating machines. Approximately 10 percent of her time is spent in operating blueprint machines. Since this employee spends only 10 percent of her time engaging in the work of blueprint machine operators, who are concededly technical employees, and the remainder of her time in performing routine clerical tasks and operating conventional duplicating machines, we shall exclude her from the unit of technical employees herein found to be appropriate.<sup>8</sup>

<sup>7</sup> See *Drexel Furniture Company*, 116 NLRB 1434.

<sup>8</sup> See *Beloit Eastern Corporation*, 119 NLRB 1407.

*Storekeeper:* The storekeeper maintains the storeroom in the engineering department and is responsible for receiving, storing, issuing, and maintaining records of all materials used in the department. Approximately 40 percent of his working time is devoted to making and maintaining records. We find that the storekeeper is a plant clerical employee and, therefore, excluded from the unit.<sup>9</sup>

On the basis of the foregoing, and upon the entire record in the case, we find that a unit of all technicians and model shop employees of the engineering department of the Employer's Vandalia, Ohio, plant, but excluding all production and maintenance employees, professional employees, plant and office clerical employees, guards, and 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.

[Text of Direction of Election omitted from publication.]

<sup>9</sup> *Barrett Division, Allied Chemical & Dye Corp.*, 116 NLRB 1649, 1651.

**International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers, Local Union No. 71 and General Drivers, Warehousemen & Helpers, Local Union No. 509, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America and The New Dixie Lines, Inc.**<sup>1</sup> *Case No. 11-CC-17. February 3, 1960*

#### DECISION AND ORDER

On November 3, 1959, Trial Examiner A. Norman Somers issued his Intermediate Report in the above-entitled proceeding, finding that the Respondents had engaged in and were engaging in certain unfair labor practices and recommending that they cease and desist therefrom and take certain affirmative action, as set forth in the copy of the Intermediate Report attached hereto. Thereafter, the Charging Party filed exceptions to the Intermediate Report and the Respondents filed a reply to the exceptions.

The Board<sup>2</sup> has reviewed the rulings of the Trial Examiner made at the hearing and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the Intermediate Report, the exceptions, the reply, and the entire record

<sup>1</sup> The New Dixie Lines, Inc., and Jocie Motor Lines, Inc., a wholly owned and controlled subsidiary, are operated as a single employer and are commonly identified by the composite name Jocie New Dixie

<sup>2</sup> Pursuant to Section 3(b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Leedom and Members Bean and Jenkins].