

We consider it strange that the only two individuals ever to hold office in NBE should disagree on the circumstances surrounding the foundation of NBE. Despite Mahon's explanation that NBE was not organized under the auspices of NBPW, we nevertheless consider that his testimony has not rebutted the inference that NBE's formation was first thought of, and was completely implemented, by a handful of NBPW officials. Despite Mahon's assertion that he assisted in the foundation of NBE in his capacity as national secretary of NIUC, we cannot disregard the fact that he was also national president of NBPW, an industrial union which has in the past attempted to represent similar powerhouse units.⁴ Furthermore, it is undisputed that Erixson was an official of an NBPW local just prior to NBE's second meeting, and that he was elected executive secretary of NBE at a meeting attended solely by three NBPW officials.

In these circumstances, we remain of the opinion that NBE is not an autonomous labor organization and that it is not independent of NBPW. In accord with the decision in *Iowa Packing Company*, we again hold that NBE was organized as an arm of NBPW for the purpose of circumventing the requirement that a labor organization seeking to serve powerhouse employees must be a "traditional representative" of such employees. We therefore grant the motions of the Employer and the Intervenor to dismiss the petition.

[The Board dismissed the petition.]

⁴ Mahon, Erixson, and Terry are all employed in the powerhouse department of the Iowa Packing Company. Since 1944, NBPW has filed at least nine petitions in which it sought to represent powerhouse units.

Arlington Hotel Company, Inc.¹ and Chauffeurs, Teamsters & Helpers, Local 878, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Petitioner.
Case No 32-RC-1250 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 John E. Cienki, 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, which operates the Arlington Hotel in Hot Springs, Arkansas, contends that the Board should not assert jurisdiction in this matter because its operations do not affect commerce within the meaning of the Act. We find no merit in this contention.

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

The record shows that, during the past year, the Employer's gross revenues were in excess of \$500,000, and that more than 75 percent of its guests resided at the hotel for periods of less than 1 month.² Moreover, the Employer stipulated, after the hearing, that, during the calendar year 1958, it purchased goods and supplies directly from points outside the State of Arkansas "valued at an amount of \$10,000 or more." We find, therefore, that the Employer is engaged in commerce within the meaning of the Act, and that it will effectuate the policies of the Act to assert jurisdiction in this proceeding.

2. The labor organizations³ involved claim 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 to represent a unit, as amended at the hearing,⁴ of all employees of the Employer engaged essentially in manual labor, including the telephone operators, but excluding (1) the room clerks, front clerks, key and information clerks, mail clerks, file clerks, and cashiers as office clericals; (2) the barber and beauty shop employees, newsstand clerks, and liquor and sundry store clerks on the ground that their interests are different; and (3) the social hostess and the publicist as professional, managerial, or technical employees. The Petitioner contends that all these employee categories it proposes to exclude have more frequent customer contact, and, therefore, higher educational, personality, and dress requirements than those of employees in the requested unit. The Petitioner would also exclude the inspectresses, dining room waiter captains, and an individual whom it designates as the room service headwaiter, contending that they are supervisors. It requests Board determination of the unit placement of food checkers.

The Employer contends that all its operations are so integrated that the only appropriate unit is one covering all regular full-time employees. It would include all the employee classifications which the Petitioner proposes to exclude: the food checkers, the individual who the Petitioner claims is designated as a room service headwaiter, and

² *Floridan Hotel of Tampa, Inc.*, 124 NLRB 261

³ After the close of the hearing, Hotel & Restaurant Employees and Bartenders International Union, AFL-CIO, filed a motion to intervene "for the purpose of appearing on the ballot if the Board should direct an election." Thereafter, the Petitioner filed a response to motion to intervene opposing the intervention. The Board is administratively satisfied, however, that this organization had obtained the necessary showing of interest prior to the hearing. Moreover, it participated in the stipulation regarding the Employer's interstate operations referred to above. We shall, therefore, permit this organization, herein referred to as the Intervenor, to participate in the election herein-after directed.

⁴ As the Intervenor was not present at the hearing and has not asserted any position with regard to the unit appropriate herein, the statements of unit contentions are limited to those made by the Petitioner and the Employer.

the inspectresses and dining room waiter captains on the ground that they are not supervisors within the meaning of the Act. The parties agreed that the executive office clerical employees, the seasonal employees, and the bathhouse employees should be excluded. The Employer would exclude the auditor, who works in the executive office, as an executive office clerical employee and also as a supervisor. There is no history of bargaining for any of the employees.

The operations of the hotel are carried on by 4 main departments designated as rooms, engineering, service, and bathhouse, which encompass 27 categories of employees. The rooms department is subdivided into front office, telephone and bell service, porters, lobby porters, elevators, security, and housekeeping. In the front office, in an area of the lobby which is only partly partitioned and which is visible from the lobby, work the room clerks, front clerks, key and information clerks, mail clerks, and cashiers, all of whom the Petitioner would exclude. The engineering department is comprised of the repair and maintenance men, decorator, painters, furniture men, and grounds men, all of whom the Petitioner would include. In the service department are the kitchen, dining room, laundry, garage, print shop, valet, and refreshment bar, the employees of which the Petitioner would include; the barber and beauty shop, sundry and liquor store, and the newsstand, the employees of which the Petitioner would exclude, and the social hostess and the publicist, whom the Petitioner would exclude. The newsstand is located in the lobby near the front desk. The sundry and liquor store, the barber and beauty shops, and the refreshment bar are all located in an arcade in the basement below the lobby, although guests may also receive barber shop service in their rooms. The bathhouse department is Government controlled, and for this reason the parties have agreed to its exclusion.

There is also a general executive office. The general manager directly supervises the general executive office, the valet, the newsstand, the social hostess, and the publicist. The assistant managers directly supervise the front office. All other categories of employees, though under separate immediate supervision, are under the overall supervision of the general manager, resident manager, and two assistant managers.

The unit proposed by the Petitioner covers approximately 18 different categories of employees who are under diverse supervision and engaged in a variety of functions, such as doormen, bellmen, elevator operators, telephone operators, porters, room maids, scrub women, repair and maintenance men, kitchen help, waiters, laundry workers, garage men, printers' helpers, refreshment bar clerks, and a valet. Many of these employees have customer contact and personality and dress requirements similar to those of employees whom the Petitioner

would exclude. For example, the refreshment bar clerks personally serve the customers, as do the doormen, bellmen, elevator operators, waiters, and room maids, and all these employees are required to wear special uniforms. It is difficult to draw a line between the duties of the retail store clerks, whom the Petitioner would exclude, and the refreshment bar clerks and the waiters, whom the Petitioner would include, as all these employees are engaged in the sale and service of products. Also, some employees whom the Petitioner would include are under the same supervision as some it would exclude. For example, the general manager directly supervises the lobby porters and the valet, who are in the proposed unit, as well as the newsstand clerk, the social hostess, and the publicist, whom the Petitioner seeks to exclude.

Further, there is a high degree of cooperation among all the employees and integration of all the departments, in the common goal of serving the hotel guests. Thus, the front office clerks give the room keys to the bellboys, check with the housekeeping department on the status of the rooms, give the telephone operators index cards on the guests, and call the service elevator operators to take departing guests' bags downstairs; the housekeeping department is in touch with the laundry room; the food checkers sometimes act as cashiers; the storekeeper receives and issues supplies for the taproom, kitchen, and housekeeping departments; the beauty shop obtains drinks for its patrons from the taproom; the retail store clerks are called by the telephone operators or the bellmen to fill customers' requests; the engineering department and the printshop service all departments of the hotel; and the social hostess is in communication with the dining room in the course of arranging dances. All employees, moreover, work in the same building, are centrally hired, and share in the same fringe benefits.

Upon the record as a whole, we find that the unit proposed by the Petitioner seeks to include some but not all the employees who have an identity or community of interests for collective-bargaining purposes, and is, therefore, inappropriate.⁵

With particular reference to the clerks, we are not persuaded by the Petitioner's argument that we should exclude the clerks classified as room clerks, front clerks, key and information clerks, mail clerks, file clerks, and cashiers on the ground that they are office clerical employees. The area in which these employees work is separated from the hotel lobby only by a partial partition, and their work brings them in frequent contact with other employees in the unit, and also with the hotel guests as they, respectively, assign rooms to the guests; keep a file of reservations; give the guests keys, information, mes-

⁵ *Catalina, Inc.*, 120 NLRB 412; *Maas Brothers, Inc.*, 116 NLRB 1886; *Sylvania Electric Products, Inc.*, 113 NLRB 375; *Richmond Dry Goods Company, Inc.*, 93 NLRB 663, 666.

sages, and mail; separate mail from the various hotel departments; and maintain the files; and the cashiers receive money from the various departments, make change, store the guests' valuables, receive payments from guests, and check them out of the hotel. In addition, as noted above, all employees are subject to the same personnel management and have the same benefits, and there is considerable interdependence of all the departments. It is clear, therefore, and we find, contrary to the Petitioner's contention, that these employees are not office clerical employees as that term is defined by the Board, but are, like the other employees in the unit hereafter found to be appropriate, operating personnel with a close mutuality of employment interests with the employees in the unit.

Accordingly, we conclude from all the foregoing that, in the hotel industry, all operating personnel have such a high degree of functional intergration and mutuality of interests that they should be grouped together for collective-bargaining purposes.⁶ With respect to the placement of office clerical employees in such units, we shall honor agreements of the parties as to their exclusion or inclusion.⁷ However, when the unit placement of office clericals as a class is in dispute, we shall include them. Accordingly, in agreement with the parties in this case, we shall exclude the employees in the general executive office. We find, contrary to the Employer's contention, that the auditor, who is not shown to have any employees working under his direction, is not a supervisor. However, as he is an office clerical, we shall exclude him, as we do the other office clericals herein.

In our opinion, moreover, the retail stores, which are operated by the Employer, and are not concessions, are also an integral part of the Employer's hotel operations. The newsstand is supervised by the general manager, and both the beauty shop manager and the sundry and liquor store manager report to general management. The employees in these shops are all employees of the Employer, work in the same building, and share in the same vacation and insurance benefits as the employees we have included in the unit. The physical location of the stores in the basement arcade, next to stores having no connection with the Employer, does not, as the Petitioner argues, destroy their community of employment interests with the other operating personnel in the hotel, and we shall, therefore, include these store employees in the unit.⁸

⁶ See *Florida Enterprises, Inc., of Georgia, d/b/a Cadillac Hotel*, 125 NLRB 258, where the Board concluded that the interests of hotel maintenance employees are not normally, sufficiently distinct from those of other hotel employees as to compel their establishment in a separate unit.

⁷ We shall treat all office clerical employees alike for unit purposes. Cf. *Raybestos Manhattan, Inc.*, 115 NLRB 1036.

⁸ See *Jackson Jitney Jungle Stores, Inc.*, 115 NLRB 374 (cafeteria employees), *F. W. Woolworth Company*, 107 NLRB 732 (lunch department employees).

The Petitioner seeks a Board determination as to the unit placement of the food checkers, whom the Employer would include. Under the supervision of the chef, they check trays, post prices on checks, take orders for room service, and, during the off-season, act as dining room cashiers. We find that they have the same employment interests as the dining room employees, who are in the unit, and we shall, therefore, include the food checkers in the unit.

We now turn to a consideration of those employees whose technical, professional, managerial, or supervisory status is in issue:

The social hostess plans entertainment for the guests, and with respect to educational requirements, is required to have only some high school education. The publicist is required to have at least a high school education, and she arranges to have published, for guests who so desire, items about them in their hometown newspapers. Although, in connection therewith, she sometimes takes their pictures, there is nothing in the record to indicate that she is a professional photographer. On the contrary, it would appear that the pictures she takes are no more than informal snapshots. From the foregoing, it is clear that the work of these employees is not of such an intellectual or sufficiently skilled nature as to indicate that they are technical or professional employees, nor is there any indication in the record that they are managerial. Therefore, contrary to the Petitioner's contention, we find that these employees are not technical, professional, or managerial employees, and we shall, accordingly, include them in the unit.

The inspectresses check the rooms to see if the maids have properly prepared them for occupancy by guests, and report any defects they find to the housekeeper. They are under the supervision of the housekeeper, and it is the housekeeper who determines the need for any disciplinary action to be taken against the maids. They have no power to hire, discharge, or effectively recommend such action, and possess none of the other statutory indicia of supervisory authority. We find, therefore, contrary to the Petitioner's contention, that they are not supervisors within the meaning of the Act, and, accordingly, we shall include them in the unit.⁹

The dining room waiter captains are under the supervision of the catering manager and headwaiter. Although the last level of supervisory authority in the dining room resides in the headwaiter, the record shows that, in case of an emergency such as a waiter arriving intoxicated, the dining room waiter captains would have authority to discharge. There is no evidence, however, that they have actually ever exercised such authority. Under all the circumstances, we find that supervisory authority is exercised by the dining room waiter captains, if at all, on an infrequent and sporadic basis.¹⁰ Accord-

⁹ *Floridan Hotel of Tampa, Inc., supra.*

¹⁰ *Seattle Automobile Dealers Association, 122 NLRB 1616.*

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 supervisors¹¹ as defined in the Act.

[Text of Direction of Election omitted from publication.]

¹¹The 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.

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].