

United States Gypsum Company, Petitioner and Local Union No. 70, United Cement, Lime and Gypsum Workers International Union, AFL-CIO. Case No. 16-RM-180. April 11, 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 Evert P. Rhea, 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 National Labor Relations Act, the Board has delegated its powers in connection with this case to a three-member panel [Chairman Leedom and Members Rodgers and Bean].

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 appropriate unit :

The Petitioner and the Union agree that a unit of all production and maintenance employees at the Employer's Southard, Oklahoma, plant is appropriate, but the Petitioner, contrary to the Union, contends that the employees whose duties are discussed below are supervisors within the meaning of the Act and should therefore be excluded from the unit.

The back hoe operator-relief foreman and the picking belt operator in the quarry organization, the regrinder operator-relief foreman, the elevator operator-relief foreman, and the calciner-relief foreman in the mill organization, the mixer operator-hi-man-oiler-relief foreman in the packing and Keenes organization, and the utility man-relief foreman in the hydrocal organization all work regularly as relief foremen at least 1 day a week and sometimes as much as 3 days a week, and as foremen whenever the regular foremen are on vacation or sick leave. When acting as relief foremen, they assume all of the duties and responsibilities of their respective regular foremen, receive a higher rate of pay, do not engage in any of their normal duties, and have complete control over their respective crews. In view of the fact that the above-listed employees exercise the powers of foremen for substantial periods of time in the regular course of their work, we shall exclude them from the unit as supervisors.¹

¹ *United States Gypsum Company*, 114 NLRB 523, 526.

The seven head department mechanics in the engineering plant organization, the crusher operator in the mill organization, the miscellaneous crew leader in the packing and Keenes organization, and the machine men, the three inspectors, and miscellaneous crew leader in the board plant organization all exercise direction over the other employees in their respective crew.

The record shows that the duties of the above-named individuals are similar in nature. All of them receive their instruction from their foremen, and the responsibility for carrying out the instructions lies in them. They use their independent judgment in instructing or reprimanding the members of their crews without consulting anyone above them. They are authorized to handle all minor grievances but no formal ones. All of them have been advised that they were endowed with supervisory authority; and the members of their crews have been made aware of it. Each was given a supervisory training course. Very little manual labor is required of them. The record shows that they cannot hire, discharge, layoff, or promote people but they can effectively recommend such action. They can also reprimand the members of their crews. Almost all of the individuals attend supervisory meetings regularly. In view of the above facts we find that the above-named individuals exercise sufficient control over their crews to be considered supervisors.²

Accordingly, we find that the seven head department mechanics in the plant engineering organization, the crusher operator in the mill organization, the miscellaneous crew leader in the packing and Keenes organization, and the machine men, the three inspectors, and the miscellaneous crew leader in the board plant organization are supervisors as defined in the Act, and therefore we shall exclude them from the unit.

Accordingly, we find that the following employees constitute a unit appropriate for collective bargaining purposes within the meaning of Section 9(b) of the Act:

All production and maintenance employees of the employer at its Southard, Oklahoma, plant excluding back hoe operator-relief foreman and picking belt operator in the quarry organization, regrinder operator-relief foreman, elevator operator-relief foreman, and calciner-relief foreman in the mill organization, mixer operator-hi-man-oiler-relief foreman in the packing and Keenes organization, utility man-relief foreman in the hydrocal organization, head department mechanics in the plant engineering organization, crusher operator in the mill organization, miscellaneous crew leader in the packing and Keenes organization, machine men, the three inspectors, and miscellaneous crew leader in the board plant organization, office clerical employees, guards, professional employees, technical employees, and all supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

² *United States Gypsum Company, supra.*