

[The Board set aside the election held on January 26, 1961, among the employees of Myrna Mills, Incorporated, in the unit heretofore found appropriate.]

[Text of Direction of Second Election omitted from publication.]

MEMBER RODGERS took no part in the consideration of the above Supplemental Decision, Order, and Direction of Second Election.

[See page 1740 for Hearing Officer's Report.]

Benjamin & Johnes, Inc. and Local 166, International Ladies Garment Workers Union, AFL-CIO, Petitioner. *Case No. 22-RC-800. October 4, 1961*

SUPPLEMENTAL DECISION AND DIRECTION OF ELECTION

On July 1, 1960, the Board issued its Decision and Order¹ in the above-entitled proceeding wherein it found that a unit of cutters and spreaders, requested by Petitioner, was not an appropriate unit for collective-bargaining purposes, and dismissed the petition therein. On July 13, 1960, the Petitioner moved for reconsideration of the Board's decision, alleging that the Board's finding that the cutters and spreaders did not exercise the skill of "marking" or "preparation of markers" was contrary to fact, and that the Board's application of craft standards to this case was in error since these standards were applicable only to severance cases and there is no question of severance in this proceeding. On November 27, 1960, the Board granted reconsideration upon the Petitioner's motion and remanded the case to the Regional Director for further hearing on the question of appropriate unit. Hearing on remand was held from December 14 through 29, 1960, before Christopher J. Hoey, 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 proceeding to a three-member panel [Chairman McCulloch and Members Fanning and Brown].

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

As indicated in our earlier decision the Petitioner seeks a craft unit of cutters and spreaders,² or, alternatively, a unit of cutting depart-

¹ Not published in NLRB volumes.

² Although spreaders constitute a separate classification of employees and are normally considered as cutter trainees, all of the cutters here employed do spreading, and the parties refer to them as "cutters and spreaders."

ment employees. The Employer contends that only an overall unit of production and maintenance employees is appropriate.

The Employer operates a factory at Newark, New Jersey, where it is engaged in the manufacture of ladies' foundation garments. The various departments of the plant are located in a five-story building; the cutting department is located by itself on the fifth floor of this building. All cutters and spreaders, and the stock clerk, work in this department under the supervision of the cutting foreman. They are paid on a "time" basis while the other employees in the plant are paid on a "piecework" basis. The cutters and spreaders begin work at a different hour than do the other employees, and punch timeclocks at a separate area.

In our previous decision, we dismissed the petition herein because on the record then before us we concluded that the cutters, although exercising the traditional cutting skills and having interests not shared by employees outside the cutting department, performed no "preparation of markers" or "marking." We observed that according to certain usage a cutter is not considered as a craft employee unless he also engaged in such "marking" function, which is accepted as a highly skilled occupation in itself.

The record now before us discloses that our earlier conclusion was in error, and that the cutters and spreaders herein sought by the Petitioner do in fact perform the highly skilled function of "preparation of markers" or "marking." In view thereof, and in the absence of other evidence in the record that would militate against such findings, it is apparent that the cutters and spreaders constitute a functionally distinct and homogeneous group of highly skilled craft employees with interests separate and apart from those of other production and maintenance employees. As skilled craft employees they constitute a separate appropriate unit.³

The Petitioner, however, has indicated that although it is willing to represent the cutters and spreaders as a craft unit, it prefers to represent all employees in the cutting department which it contends is an appropriate departmental unit. The record before us discloses that in the garment industry cutting department employees, because of their essentially different skills, their separate interests and supervision, have traditionally been organized on a departmental basis, and that the Board has in the past recognized their separate interests and found that these interests entitled them to separate representation.⁴

In view of the foregoing, and on the record as a whole, we find that the following employees constitute a unit appropriate for the purposes

³ *Rothschild-Kaufman Co., Inc., d/b/a Tailored Slacks of Hollywood*, 98 NLRB 353, 354; *Sr James, Inc.*, 97 NLRB 1572, 1573. Cf. *Chalet, Inc.*, 107 NLRB 109, 111.

⁴ *Ibid.*

of collective bargaining within the meaning of Section 9(b) of the Act:

All cutting department employees, including cutters and spreaders, and the stock clerk,⁵ but excluding office clerical employees, professional employees, all other employees, guards, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

⁵ We include the stock clerk, Rossi, as the record shows that he works only in the cutting department in constant contact with the cutters and spreaders, and occasionally does both cutting and spreading. We find that he has a community of interest with the other employees in the cutting department. See *Rothschild-Kaufman Co., Inc., supra*, at page 354.

Great Bay Chemical & Plastics, Inc. and Local 626, International Chemical Workers' Union, AFL-CIO, Petitioner. *Case No. 22-RC-1195. October 5, 1961*

SUPPLEMENTAL DECISION AND DIRECTION OF ELECTION

On September 6, 1961, the Board issued a Decision and Direction of Election¹ in the above-entitled proceeding in which it held that the employees employed at the time of the hearing constituted a substantial and representative segment of the complement to be employed in the future and that an election at this time would not be premature. Subsequently, the Employer made a request to delay the election until December 12, 1961, on the ground that the planned consolidation of the Employer and Regency Plastics, Inc.,² would not be completed until December 1, 1961. This request was concurred in by the Intervenor, Local 239, International Brotherhood of Teamsters, who had represented the employees of Regency Plastics, but was opposed by the Petitioner.

When the original hearing was held in this case, it appeared that the consolidation of the Employer and Regency Plastics, Inc., would be completed by October 1, 1961, and at the time of the original Decision and Direction of Election it appeared that many, if not most, of the former employees of Regency would be employed at the Employer's new plant at East Brunswick, New Jersey, on that date. It now appears that the work force at East Brunswick still is composed of only 35 to 40 employees, and that the 57 employees of Regency have been placed on "furlough" until the new East Brunswick plant is ready for operation. In view of the fact that the employees of

¹ Not published in NLRB volumes.

² Regency Plastics, Inc., is a subsidiary of Cary Chemical Corporation which is also the parent corporation of the Employer in this case.