

and in the absence of a history of bargaining on a broader basis at the South San Francisco store, we would find, contrary to our colleagues, that a separate unit of janitorial employees may be appropriate, although such employees may also be part of a storewide unit.

White Front San Diego, Inc. and White Front La Mesa, Inc. and Building Service Employees International Union, Local 102, AFL-CIO,¹ Petitioner, and Teamsters, Chauffeurs, Warehousemen and Helpers Union, Local 542, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America,² Petitioner. *Cases 21-RC-9889 and 9946. June 20, 1966*

DECISION AND ORDER

Upon separate petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, a consolidated hearing was held before Hearing Officer Claude R. Marston. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. The Petitioners, the Intervenor,³ and the Employer each filed briefs with the National Labor Relations Board.

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 [Members Fanning, Jenkins, and Zagoria].

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

1. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The labor organizations involved claim to represent certain employees of the Employer.

3. No question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Sections 9(c) (1) and 2(6) and (7) of the Act for the following reasons:

Building Service Employees seeks to represent a unit of janitors and janitresses, and Teamsters seeks to represent a union of nonsales employees at the Employer's San Diego and La Mesa stores. The Employer and the Retail Clerks contend that only a unit of all employees at both stores is appropriate.⁴

¹ Herein called the Building Service Employees.

² Herein called the Teamsters.

³ Retail Clerks Union, Local 1222, affiliated with Retail Clerks International Association, AFL-CIO, herein referred to as the Retail Clerks or Intervenor, was permitted to intervene on the basis of a card showing among the employees involved.

⁴ All parties appear to agree that a two-store unit is appropriate. They differ only as to the composition of the unit.

The San Diego and La Mesa stores are discount department stores which opened for business on November 18, 1965. They are part of a chain of similar stores operated by the same interests in the State of California. Prior to the filing of the petitions herein, and as the result of a card check, the Employer recognized the Retail Clerks as bargaining representative of all employees at both stores, including janitorial and nonsales employees. Although a collective-bargaining contract has been negotiated for all employees in the two-store unit, it is not claimed that this contract is a bar.

The stores involved are basically self-service operations. They are almost identical in physical layout and have various departments which carry a wide range of merchandise. Some of the departments are operated by independent owners who lease floor space from the Employer and have their own employees and immediate supervision, although the store manager maintains supervision of the entire store, including the licensed departments. All employees wear badges and uniforms furnished by the Employer. Working conditions and fringe benefits are the same for all employees even to the extent that, with few exceptions, all employees receive the same wage rates and identical holidays.

There are five janitors employed in each store. They scrub, mop, wax, sweep, and strip the floor; they also dust the grill work along the main aisle of the store. In addition to these duties, janitors also regularly fold merchandise and hang up garments which are later put on display on the selling floor. Employees working in various departments on the sales floor are responsible for dusting their respective departments; boxboys nightly scrub down and dispose of refuse in the check-out stands. Most of the stockrooms are maintained by stockroom employees, not by the janitors. When janitors are not otherwise available, boxboys are also responsible for cleaning up any spillage or breakage which may occur. In the La Mesa store janitors are under the direct supervision of the assistant store manager in charge of operations, who also has direct supervision over various other non-selling departments. The janitors in the San Diego store are under the direct supervision of a leadman.

The so-called nonselling unit sought by the Teamsters includes all "nonsales" personnel, checkers,⁵ markers, shipping and receiving clerks, warehousemen, PBX operators, validations employees, contract writers, receptionists, secretaries, bookkeepers, file clerks, sign makers, sign painters, appliance repairmen, furniture touch-up and burn men,

⁵ The term "checker" as used by the Petitioner has reference to the Employer's classification of "marker." At the hearing, the Petitioner clarified the terminology used and indicated that the classifications "boxboys" and "cashier" (checker) were not included in the unit sought.

and radio, TV, and phonograph repairmen, but excludes sales personnel, maintenance employees, guards, snack bar employees, watchmen, and supervisors.

The unit sought by the Teamsters would include employees who, like the "markers" or "checkers," mark merchandise which is then placed in the various stockrooms or placed on the selling floor, but would exclude bagboys and cashiers who also do marking work. Like the excluded bagboys, the "markers" or "checkers" also bag merchandise at the checkout stands. The unit would also include shipping, receiving, and warehouse employees, also referred to as "dock personnel," who unload or "off-load" incoming merchandise, mark, and deliver it to the appropriate department on the selling floor or to the stockrooms, although it would exclude janitors, boxboys, sales stock employees, and cashiers who also perform some or all of these duties when the need arises.

As stated, the San Diego and La Mesa stores are essentially self-service operations. Practically all employees are unskilled. Working conditions are the same for all store employees, even to the extent that almost all wage rates are identical. There is considerable overlap in duties among the various employees. There is no separate bargaining history for janitors or nonsales employees at these stores. Finally, the Retail Clerks is seeking to bargain for the employees sought herein as part of a storewide, two-store unit. Under these circumstances, we find that the separate units of janitors sought by the Building Service Employees,⁶ and nonsales employees sought by the Teamsters,⁷ are not appropriate for bargaining purposes. We shall therefore dismiss these petitions.

[The Board dismissed the petitions.]

⁶ *White Front San Francisco, Inc., d/b/a White Front South San Francisco, Inc.*, 159 NLRB 681 (Chairman McCulloch and Member Brown dissenting), issued this day. Cf. *J. L. Hudson*, 155 NLRB 1345.

⁷ *J. W. Mays, Inc.*, 147 NLRB 968; *Allied Stores of New York, Inc.*, 150 NLRB 799, 804.

Edir, Inc., d/b/a Wolfie's and Club and Restaurant Employees' and Bartenders' Union Local No. 133, AFL-CIO, an affiliate of Hotel and Restaurant Employees and Bartenders International Union. *Cases 12-CA-3002 and 3048(1-2).* June 20, 1966

DECISION AND ORDER

On December 10, 1965, Trial Examiner Samuel M. Singer issued his Decision in the above-entitled proceeding, finding that the Respondent had engaged in certain unfair labor practices and recommending that 159 NLRB No. 72.