



alternative, Petitioner proposes a departmental unit consisting of the employees in Employer's departments 1242, 1245, and 1164.<sup>5</sup> While stipulating that Petitioner has traditionally represented employees of the tool and die craft, Employer and Intervenor contend that neither unit is appropriate for separate representation.<sup>6</sup>

The Employer is engaged in the manufacture of defense products at its Downey and Fullerton, California, facilities involved herein. Its tooling work is concentrated in the south end of building E at the Downey plant.<sup>7</sup> The production and maintenance work is performed in buildings A, B, and D at Downey, and at the Fullerton facility located 20 miles away. At the time of the hearing, about 26 tool-and-die makers and fixture makers worked in building E; two were assigned to A; and one each to B and Fullerton. For the most part, those assigned to A, B, and Fullerton do maintenance and repair work on completed tools. The E building tool-and-die makers and fixture makers are responsible for most of the toolmaking. At times they leave the E building to do tooling work in a production area, and occasionally they work on a production part. And sometimes production employees do tooling jobs which E building is unable to handle. Certain production employees (e.g., milling machine, lathe, and V.T.L. machinists) share the same job description, labor grade, seniority list, and hiring procedures as their counterparts in the tooling departments. Production employees also perform certain machining, heat treating, painting, and plating operations on the tools made by the tool-and-die makers and fixture makers. Most of the inspectors, machinists, and other requested employees are also located in building E. However, 12 tool and cutter grinders in department 1245 and 10 inspectors in department 1164 are assigned to building B; and 1 molded plastic toolbuilder in department 1242 is in building D.

As noted above, toolbuilding work is the primary responsibility of most of the tool-and-die makers and fixture makers. They receive their tooling assignments from "tool control," and work from a design or blueprint developed by a tool engineer or designer. The tooling work involves hard alloy steels with tolerances of up to one ten-thousandths of an inch. The tool-and-die makers and fixture makers provide their own handtools. Math and trigonometry

are required, but mathematical tables are provided. The tool-and-die maker and fixture maker classification is given the highest labor grade under the Employer's job-rating system. Wages range from \$3.60 to \$3.88 an hour under the first wage step of the 1965-68 agreement. However, not all tool-and-die makers and fixture makers perform the entire range of toolmaker craft skills. Thus, only about five can build dies, and only four or five can design tools. A number specialize in the making of jigs and fixtures. The jig and fixture makers were blended into the tool-and-die maker and fixture maker classification in 1963. Also, an increasing amount of tooling work is done by numerical control machines.

The Employer has no apprentice or formal training program for the tool-and-die makers and fixture makers. But it does try to hire those who have had some tool and die experience. Of the tool-and-die makers and fixture makers employed at the start of the hearing, it appears that 13 had some tooling experience when hired, 10 had only jig and fixture experience, and 3 had only machinist experience. There were 15 hired directly as tool-and-die makers and fixture makers, 8 were hired as jig and fixture builders, 3 as machinists, and 3 in other jobs. The time required for promotion to tool-and-die maker and fixture maker ranged from 7 months to 10 years.

The tooling inspectors of department 1164 are in the same labor grade as the tool-and-die makers and fixture makers. They work in buildings E and B, inspecting work on the tooling job as it progresses. Tooling inspection experience is required for the tooling inspector classification.

The machinists, grinders, template makers, and others in departments 1242 and 1245 are also skilled employees. Many of the machinist and grinder classifications have wage grades just below that of the tool-and-die makers, fixture makers, and tooling inspectors. Their tasks in the tooling departments are not substantially different from those of the machinists and grinders in the production departments.

Under the Employer-Intervenor bargaining agreement, the tool-and-die makers and fixture makers are accorded the right to "bump" back into production jobs in the event of a cutback. With the Employer's fluctuating employment pattern,<sup>8</sup> tool-and-die makers and fixture makers move back and forth between production and tooling jobs. The

<sup>5</sup> In addition to substantially the same classifications as are included in the preferred unit, this alternative unit embraces the welders, toolcrib attendant, and helper of department 1242

<sup>6</sup> Intervenor also contends that a contract between it and Employer bars this proceeding. However, we find that Intervenor has not shown that any final, fixed-term contract was in existence at the time the petition was filed on February 16, 1966. For, at that time, Intervenor and Employer had not yet executed their 1965-68 agreement, but, rather, were apparently extending, on a day-to-day basis, the terms of their 1962-65 agreement. This transitory arrangement lacks the fixed-duration stability which lies at the heart of the contract-bar principle. See *Deluxe Metal Furniture,*

*Inc.*, 121 NLRB 995, 1000, 1002. Accordingly, we find no contractual bar to the present petition.

<sup>7</sup> The north end of E contains the research and engineering departments, the employees of which are excluded from Intervenor's production and maintenance unit.

<sup>8</sup> The number of production and maintenance employees fell from 3,165 in January 1963 to 756 in January 1966. Employment in the tool-and-die maker and fixture maker classification dropped from 184 to 29 during the same period. However, at the hearing on April 5, 1966, the Employer indicated that it expected unit employment to increase by several hundred by the close of the year.

bargaining agreement<sup>8</sup> has operated to equalize the duties, wages, and fringe benefits of machinists, grinders, and others within and without the tooling departments.

As appears from the recent *Mallinckrodt* decision,<sup>9</sup> a determination as to whether a craft severance election should or should not be granted must be based upon a weighing of all relevant factors in the case. Considering all the facts in this case, we do not believe that severance as requested by Petitioner is warranted.

The employees whom Petitioner seeks to represent in either unit possess and exercise special skills. However, it also appears that, within the tool-and-die maker and fixture maker classification, tooling skills have been diluted by specialization and by the use of numerical control machines. The lack of any apprentice program or rigid requirement of tooling experience as a qualification reflects this dilution of skills. Perhaps because of the nature of the Employer's ordinance work, there appears to be no sharp demarcation between tooling and production work; instead, there is sometimes an overlapping in the work of these groups. As already noted, the tool-and-die makers and fixture makers actually "bump" back into production work as necessitated by the fluctuations in employment. The machinists, grinders, and other requested employees also have tasks and interests substantially identical with their counterparts in production. Under all the circumstances, including the 15 years of bargaining on an overall basis,<sup>10</sup> we do not find that either of the requested units consists of employees who have such a separate community of interests as would entitle them to be represented separately. We shall therefore dismiss the petition.

#### ORDER

It is hereby ordered that the petition filed herein be, and it hereby is, dismissed.

Member Fanning, concurring:

I concur in my colleagues' dismissal of the petition. I do so for the reasons set forth below:

I am satisfied that the record demonstrates that the employees whom the Petitioner seeks to represent do not have the separate community of interests normally enjoyed by employees performing tool-and-die making functions which is the precondition for the severance of such employees from a more inclusive unit. For example, the Employer employs approximately 100 production machinists whose job descriptions and classifications are identical with, and whose skills and wage rates are comparable to, those of the 15 machinists included in the proposed tool-and-die maker unit. Moreover, all of the employees in the proposed unit have bumping rights in the production machinist jobs, which rights are exercised

frequently because of the numerous contractions and expansions in the Employer's working force. The Employer does not maintain an apprenticeship or other systematic program for the special training of tool-and-die making employees. The foregoing circumstances amply demonstrate that the employees engaged in the making of tools and dies have a strong community of interest with a substantial number of production employees, a community of interest which overshadows the separate interests they enjoy by reason of the fact that presently they are engaged in tool-and-die making operations. In addition it appears that both the principal unit request of the Petitioner seeking representation on a craft basis, and the alternative request on a composite departmental basis, have defects for severance purposes: the craft request because of the inclusion of tool and die inspectors, only a very few of whom have tool-and-die work experience; the departmental request for lack of inclusion of the classification "inspectors precision gauge" who, like the tool and die inspectors, are part of department 1164.

Accordingly, I find a unit limited to employees engaged in the tool-and-die making process at the plant involved herein is not appropriate for purposes of collective bargaining.

<sup>9</sup> *Mallinckrodt Chemical Works, Uranium Division*, 162 NLRB 387

<sup>10</sup> See, e.g., *Rohr Corporation*, 157 NLRB 1351. *Holmberg, Inc.*, 162 NLRB 407, in which Member Fanning dissented

#### **Pacific Coast Association of Pulp and Paper Manufacturers and International Brotherhood of Pulp, Sulphite and Paper Mill Workers, AFL-CIO, and United Papermakers and Paperworkers, AFL-CIO, Joint Petitioners.<sup>1</sup>**

#### **Scott Paper Company and International Brotherhood of Pulp, Sulphite and Paper Mill Workers, AFL-CIO, and United Papermakers and Paperworkers, AFL-CIO, Joint Petitioners. Cases 36-RC-2232 and 19-RC-4083.**

April 4, 1967

#### DECISION AND DIRECTION OF ELECTIONS

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, a consolidated hearing was held before Hearing Officer E.G. Strumpf.<sup>2</sup> The Hearing Officer's rulings

<sup>1</sup> The Joint Petitioners' names appear as amended at the hearing

<sup>2</sup> Association of Western Pulp and Paper Workers, herein called AWPPW, and Association of Western Pulp and Paper Workers, Locals 644, 183, and 196, herein called the Locals, were each permitted to intervene at the hearing