

Wigwam Stores and Retail & Wholesale Warehousemen's Local Union No. 130, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Independent, Petitioner. Case 19-RC-4086

August 7, 1967

DECISION AND DIRECTION OF
ELECTION

BY MEMBERS FANNING, JENKINS, AND ZAGORIA

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Hearing Officer Robert F. Stange, of the National Labor Relations Board. The Petitioner and Intervenor have filed briefs with the Board.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its powers in connection with this case to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

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 organizations¹ involved claim to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. The Employer owns and operates about 19 retail stores and a single, separate warehouse. Since about 1952 the Intervenor has represented, with exceptions not here relevant, all the Employer's employees in the greater Seattle, Washington, area, including those engaged in what is here described as the warehouse activities. The Petitioner now seeks to represent a unit limited to employees working in the warehouse. Both the Employer and Intervenor contend that, in view of the long history of bargaining on the multistore basis, the requested unit is not appropriate.

Originally, the Employer's "warehouse" operations were located in the back half of a retail store. As a result of increasing business more room was needed for warehouse operations; thus in 1962 or 1963 the retail store was moved to a location across

the street and the whole building was taken over by the "warehousing" operations² which remained in that building until 1966. During this period from roughly 1955 to 1966, the "warehouse" work consisted essentially of receiving merchandise, marking it, and shipping it to the various retail stores. Because of a shortage of space, there was little or no storing of merchandise except for a limited stocking of seasonal items. As it needed additional space for marking and as it wished to store merchandise for future use, the Employer built and in February 1966 moved its warehousing operations into a new building, also housing its general offices, located some 2 miles from its nearest retail store. The work performed there by the warehouse employees is substantially the same as that performed in the old warehouse with, however, the addition of the regular storing of goods. There are no retail operations in the new building.

The employees in the warehouse are classified as heavy warehousemen, assistant receivers, light stockworkers, markers, and pickup boys. The markers have their own separate immediate supervisor, who is under the warehouse manager; the latter also directly supervises the rest of the warehouse employees.³ The manager does not supervise any retail or other employees represented by the Intervenor. There is no interchange between retail and warehouse employees, except on rare occasions when a marker may help out in repricing goods in a retail store for a sale. Additionally, the warehouse employees work different hours from those of the retail employees and are paid at area warehouse, not retail, rates.

As the warehouse employees are under supervision separate from the retail stores, perform their work in a building geographically separate from the retail stores, are not integrated with any other of the Employer's employees in the performance of their regular work, and have different hours and wage rates, they constitute an employee group of a type the Board has found may constitute an appropriate unit, at least in the absence of a controlling bargaining history including such employees in a broader unit.⁴ As noted, the Employer and Intervenor argue that there is a broad bargaining history extending over some 13 years, which precludes a finding that the warehouse employees can properly be severed from the existing multistore unit. We disagree. Prior to 1966, the Employer did not maintain a full warehouse operation. What was so designated consisted essentially of only a receiving, marking, and distributing center, located either in the same building or just across the street from a retail store. It was not until these operations were moved to their present location, some 11 months before the peti-

¹ Local No. 1207, affiliated with the Retail Clerks International Association, AFL-CIO, intervened in this proceeding on the basis of its contract covering employees in the unit requested by the Petitioner

² The Employer had about 8 stores in 1955, 9 in 1962, and 19 in 1966

³ He also supervises the Employer's three truckdrivers who are represented by Local 174 of the Teamsters

⁴ See for example *A. Harris & Co.*, 116 NLRB 1628; and *J. W. Robinson Co.*, 153 NLRB 989

tion was filed, and augmented with the regular storing of merchandise for future use, that the Employer had a separate, complete warehousing operation. Consequently, we have here a bargaining history of less than a year for the warehouse group and such bargaining history does not include any period of negotiations during which the particular problems of a separate warehousing group might have been taken into consideration and resolved. In these circumstances we find that the requested unit of warehouse employees is not barred from being separately represented at this time.

In view of the foregoing we find that the following

⁵ An election eligibility list, containing the names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 19 within 7 days after the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. No extension of time to file this list shall be

employees of the Employer may constitute a unit appropriate for purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All warehouse employees at the Employer's 3701 South Norfolk Street, Seattle, Washington, warehouse including assistant receivers, heavy warehousemen, light stockworkers, pickup boys and markers, but excluding all other employees, guards, and supervisors as defined in the Act.

[Text of Direction of Election⁵ omitted from publication.]

granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. *Excelstor Underwear Inc.*, 156 NLRB 1236.