

Fremont Hotel, Inc.¹ and Robert Piccardo, Italo Chelfi, et al., d/b/a Golden Gate, a Partnership¹ and International Association of Machinists and Aerospace Workers (AFL-CIO), Petitioner, and Local Joint Executive Board of Las Vegas of the Hotel and Restaurant Employees and Bartenders International Union, AFL-CIO, Intervenor No. 1, and American Federation of Casino and Gaming Employees, Intervenor No. 2. Cases 31-RC-575 and 31-RC-578

November 7, 1967

DECISION AND DIRECTION OF ELECTIONS

BY CHAIRMAN McCULLOCH AND MEMBERS JENKINS AND ZAGORIA

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held on June 15, 1967, before John Prough, Hearing Officer of the National Labor Relations Board. Local Joint Executive Board of Las Vegas of the Hotel and Restaurant Employees and Bartenders International Union,² AFL-CIO, and the American Federation of Casino and Gaming Employees intervened. Thereafter, the Employers, the Petitioner, and the Gaming Union (Intervenor No. 2) filed briefs.

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 Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

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

1. The Employers are engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
2. The Petitioner and Intervenor are labor organizations claiming to represent certain employees of the Employers.
3. Questions affecting commerce exist concerning the representation of certain employees of the Employers within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act.
4. The Petitioner seeks to set up separate units at the Golden Gate and the Fremont consisting of all slot machine mechanics, their apprentices, and/or helpers.³ The Employers and the Gaming Union deny the appropriateness of this unit and

contend that these employees should be considered as members of casinowide units.

The Employers are doing business as hotels, restaurants, and gaming casinos within the State of Nevada. In each of the Employers' casinos, there are a large number of slot machines, 700 at the Fremont alone. The machines are served by the slot machine mechanics. At the Fremont,⁴ there are 10 slot machine mechanics working three shifts daily (10-6, 6-2, and 2-10) on the floor and one shift a day (8-4) in the shop. They are supervised by three floormen and one slot machine manager. There is normally a four-man crew in the repair shop, although one man usually helps out on the floor when the casino is busy.

The floor shifts consists of two mechanics each. There is a repair shop in the basement where preventive maintenance, major overhaul, and major repair of over 700 slot machines is conducted. The supervisors, in hiring new slot machine mechanics, look for men with extensive mechanical and electrical background and ability. It usually takes 4 years to train a slot machine mechanic to full capacity. During these 4 years, the trainee works under the supervision of more experienced mechanics and receives a much lower wage than a qualified mechanic. Mechanics are paid on the same day as other casino employees, punch the same timeclock, use the dealer's room for their breaks, and are under the ultimate control of the casino manager and pit bosses. At the Fremont, the mechanics wear brown smocks which say "slot machine mechanics" on the backs; at the Golden Gate, the mechanics wear their own special blue smocks. There is undenied testimony that the slot machine mechanics do not interchange jobs with any of the other employees. The record also indicates that the repair of the slot machines is the sole responsibility of the slot machine mechanics.

Contentions and Discussion

The Gaming Union contends that a contract-bar situation exists at the Golden Gate because the slot machine mechanics are included in the unit covered by its collective-bargaining agreement.⁵ However, each of the other classifications⁶ of employees found in the casino is specifically mentioned in the contract between the Gaming Union and the Golden Gate; the slot machine mechanics are not. The Gaming Union's contention that "all casino employees" covers the slot machine mechanics is without merit, in view of the fact that the included jobs are all mentioned separately. The contract specifies the wages of the other classifications; the

¹ As corrected on the record

² This Union agreed with Petitioner as to the units and intervened only to protect its interest in certain nonunit employees, the change girls and booth cashiers at both places

³ Petitioner originally asked for a unit of coin machine mechanics but, at the hearing, changed to a unit of slot machine mechanics

⁴ It was stipulated that testimony about the wages, working conditions, mechanical skill required, and other points regarding the Fremont Hotel mechanics was applicable to the Golden Gate slot machine mechanics

⁵ There is no contract involved at the Fremont Hotel

⁶ Except the change girls and cashiers, which the Gaming Union does not contend are covered by the contract

slot machine mechanics' wages are not included. There is no showing that the slot machine mechanics ever participated in union activities, paid dues, or were represented by the Union in bargaining for wages and benefits.

There is no mention of slot machine mechanics in the unit found appropriate by the Regional Director in his Decision and Direction of Election at the Golden Gate issued on November 19, 1965.⁷ When the slot machine mechanics attempted to vote in that election, according to Martin Mohar, a slot machine mechanic at the Golden Gate, the Board agent informed them that their names were not included on the list of eligible employees, and they were not allowed to vote. We find it significant that the Gaming Union participated in the election, and the record reveals no attempt to allow the slot machine mechanics to vote by the union that was allegedly seeking to represent them. On these facts, the Gaming Union has not made a clear showing that the slot machine mechanics were included in the unit or that the contract is a valid bar to an election.

The Petitioner contends that the slot machine mechanics have the separate interests and craftsmen's skills to make an appropriate craft unit. The Employers and the Gaming Union contend that the slot machine mechanics are not skilled craftsmen and that their community of interest with other employees is such that a casinowide unit is the only appropriate one.

There are large numbers of slot machines at each of the two hotels involved here—and the care of these highly complicated machines is the responsibility of the slot machine mechanics. The slot machine mechanics, although under the general supervision of the casino bosses, have their own supervisors, who hire and fire and are the sole judges in deciding whether employees should get raises in pay. James Runkle, the Employer's witness and a slot machine mechanic supervisor, testified that he preferred that candidates for slot machine mechanics' jobs have at least 10 to 12 years of experience in mechanical fields, and that he preferred a man with both a mechanical and electrical background. He also stated that it took, on the average, 4 years to develop a good slot machine mechanic, and that there were only a handful of men who developed well enough to be considered as top men in the field. During this 4-year period, the trainee is under the close supervision of an experienced mechanic; wages during this period are quite low, compared with those of a fully qualified mechanic.

The slot machine mechanics use the basement shop to do extensive repairs on the slot machines, involving disassembly and reassembly of the

machines, and in some cases even fabricating new parts for them. While the record is unclear as to whether all of the slot machine mechanics at the Fremont, at one time or another, worked in the shop to perform the above-mentioned tasks, Warren Smith, a long-time mechanic at the Fremont, gave uncontradicted testimony that each mechanic is required to know how to operate such equipment as drill presses, grinders, and welding machines. He also testified that each mechanic is required to be able to test the electrical system of the slot machines, which requires the use of voltage meters, amp meters, ohm meters, short testers, and other special electrical test equipment made specifically for testing the particular type and brand of machine (Bally test equipment). Each mechanic is also required to be able to work from diagrams and sketches in manufacturers' manuals used in repairing and testing the slot machines. The slot machine factory sends its representatives to the casinos to train the slot machine mechanics in repair of the new type machines, and to instruct them in newly developed tests in diagnosing problems with the machines. William Collins, a slot machine mechanic who worked on the floor and in the shop at the Golden Gate, gave undenied testimony that he was required to know how to disassemble and reassemble the machines.

While the record shows that the slot machine mechanics do have some community of interest with the other employees of the casino, there are several important differences: The mechanics have their own special uniform with "slot machine mechanic" written on the back, they are the only ones who work on the slot machines, and they do not relieve or interchange jobs with any of the other employees. The slot machine mechanics are also the highest paid employees in the casino, which is a further indication of their skill and the value of the work they perform. From these facts, we find that the slot machine mechanics are skilled craftsmen and form an appropriate unit.

The Employers cite *El Dorado Inc.*,⁸ and *M & R Investment Co. d/b/a Dunes Hotel*,⁹ but we find these cases are inapposite. In *El Dorado Inc.*, the union did not seek a separate slot machine mechanics unit. In *M & R Investment Co.*, unlike here, two intervening unions sought a unit explicitly including slot machine mechanics, so that the Regional Director's decision not to grant petitioner's unit excluding slot mechanics resulted in a unit specification including "all gaming casino employees at the Employer's Las Vegas, Nevada, establishment, including dealers, shills, and slot machine mechanics but excluding . . ."¹⁰ We also note that, in *M & R Investment Co.*, the slot machine mechanics sometimes relieved cashiers

⁷ Case 31-RC-104

⁸ 151 NLRB 579

⁹ Case 31-RC-531, issued May 25, 1967 (not published in NLRB

volumes)

¹⁰ Case 31-RC-531, p 1

and change girls, while the record here shows no such dilution of separate duties and status.

The Gaming Union invokes our landmark decision in *Mallinckrodt*,¹¹ and several subsequent cases as controlling precedents which require denial of the slot machine mechanics unit. These cases, however, deal with severance of employees from a larger unit; here, as we have found above, the slot machine mechanics have not been included in any represented unit. Thus, while we find the *Mallinckrodt* tests useful in our determination of the appropriateness of the unit requested here, we will not apply the same measure in dealing with whether an appropriate craft unit should initially be established as we would in considering whether severance should be granted from an established bargaining unit.

We find significant areas of similarity between the instant case and *E. I. Dupont de Nemours and Company (May Plant)*,¹² where we noted at the outset that "there is no history of bargaining" for the employees sought and went on to find appropriate a unit of electricians. As in *Dupont*, few if any of the employees here were qualified as slot machine mechanics when hired. Most, again as in *Dupont*, were trained over a period of years through a training program conducted by the Employer to fill skilled jobs: in *Dupont*, as electricians; here, as slot machine mechanics. In *Dupont* we found that, although the electricians were trained in a 3-year training program by the employer rather than a formal State apprenticeship program, it was sufficient to enable these men to be considered craftsmen. In the present case, we have no specifically mentioned apprenticeship, but there is a 4-year training program under the supervision of an experienced mechanic, work in the shop, and courses taught by factory representatives of the slot machine manufacturers in the care and repair of their machines. While Runkle testified that there is a strict requirement of a sound background and ability in mechanic fields in order to qualify for the slot mechanic

training program, in *Dupont* it appears the trainees began with no actual experience in mechanical or electrical fields. In *Dupont*, there were employees who performed the electricians' jobs from time to time, while, in the present case, the slot machine mechanics were the only employees who worked on the slot machines.¹³ We likewise find a similarity between the present case and *Union Carbide Corporation: Chemicals Division*,¹⁴ where a group of plumbers, pipefitters, and welders doing maintenance work were determined to be a craft unit as apart from the rest of the maintenance unit. In *Union Carbide*, as well as the present case, there was no history of collective bargaining. There, all new hires began as laborers and needed no experience in any of the particular crafts, but, when the employee moved up into one of the craft jobs in the maintenance unit, he was required to take a general course which covered basic mathematics, basic blueprint reading, basic science, and basic freehand sketching. After this course was over and he went into one of the special craft areas, he was given constant on-the-job training. The case held that, since the plumbers, pipefitters, and welders performed tasks requiring a degree of skill that would place them in the craft category, they should have their own separate unit.

We therefore find that the following employees constitute units appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All slot machine mechanics, their apprentices, and/or helpers employed at the Fremont Hotel, but excluding all other employees, guards, professional employees, and supervisors as defined in the Act.

All slot machine mechanics, their apprentices, and/or helpers employed at the Golden Gate Club, but excluding all other employees, guards, professional employees, and supervisors as defined in the Act.

[Direction of Elections^{15 16 17} omitted from publication.]

¹¹ *Mallinckrodt Chemical Works*, 162 NLRB 387

¹² 162 NLRB 413

¹³ Due to the similarity between the slot machine mechanics in the present case and the electricians in the *Dupont, May Plant* case discussed above, we find in the present case, as we did there, that the slot machine mechanics are not "specialists" as were the electrical maintenance employees in the earlier *Dupont, Savanah River Plant* case, 119 NLRB 723. In the *Savanah River* case, the electricians sought were closely integrated with the production employees working with them on teams to accomplish specific projects, only 5 percent were assigned to the electrical shops. It was this close functional integration of the maintenance employees (electricians included) with production employees that was the primary basis for finding that the electricians were "specialists" rather than craftsmen. There is even less integration with production work in the instant case than there was in the *Dupont, May Plant* case.

¹⁴ 156 NLRB 634

¹⁵ We find no merit in the Gaming Union's contentions that pending or-

ders in unfair labor practice cases (Cases 31-CA-130 and 31-CA-341) not yet enforced against the Fremont Hotel should delay an election, for, as we have shown, the slot machine mechanics are not a part of the casino-wide unit involved in those cases.

¹⁶ Election eligibility lists, containing the names and addresses of all the eligible voters, must be filed by the Employers with the Regional Director for Region 31 within 7 days after the date of this Decision and Direction of Elections. The Regional Director shall make the lists available to all parties to the elections. No extension of time to file these lists shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the elections whenever proper objections are filed. *Excelsior Underwear Inc.*, 156 NLRB 1236.

¹⁷ Although we find separate units, we have included the Gaming Union on the ballots because it has shown interest in these employees. It may withdraw however within 5 days from the date hereof, if it is not interested in representing these employees.