

**Bowman Building Products Division and Allegheny Strapping Division of Cyclops Corporation, Employer and Petitioner and United Steelworkers of America, AFL-CIO**

**Bowman Building Products Division of the Cyclops Corporation and United Steelworkers of America, AFL-CIO, Petitioner.** Cases 6-RM-334, 6-UC-13, and 6-UC-14

March 13, 1968

**DECISION AND ORDER**

BY CHAIRMAN McCULLOCH AND MEMBERS BROWN AND JENKINS

Upon separate petitions duly filed pursuant to Section 9(b) and (c) of the National Labor Relations Act, as amended, a consolidated hearing was held before Hearing Officer F. J. Surprenant. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, Series 8, as amended, by direction of the Regional Director for Region 6, these cases were transferred to the National Labor Relations Board for decision. Briefs have been filed by the Employer-Petitioner and the Union-Petitioner.

Pursuant to the provisions of Section 3(b) of the Act, as amended, the Board has delegated its powers in connection with these cases 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.<sup>1</sup>

Upon the entire record in these cases, including the briefs filed by the parties, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organization involved claims to represent certain employees of the Employer.
3. No question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act for the following reasons:

The Employer is a Pennsylvania corporation engaged in the manufacture and sale of steel strapping, steel strapping tools, steel roof deck, and steel forms for pouring concrete, all of which are used for industrial and commercial building, con-

struction, and other purposes. Its main plant and office are at Heidelberg, Pennsylvania. It also has a plant at Arden Industrial Park near Washington, Pennsylvania.

The Employer's employees at the Heidelberg plant are represented by the Union in a production and maintenance bargaining unit.

Prior to 1959, the Employer manufactured strapping tools at the Heidelberg plant for use on steel strapping. In 1959, the Employer decided to discontinue the manufacture of strapping tools, and from then until 1965 it purchased such tools from Tool Room Products, Inc., of Cleveland, Ohio, which manufactured, packaged, and shipped the tools to the Employer's customers. In 1965, the Employer considered whether to resume the manufacture of strapping tools and entered into discussions with the Union concerning such a resumption. The parties entered into a "Memorandum of Understanding Regarding Box Strapping Tools and Devices" which provided that any work done in the tool department, such as repair, assembly, or manufacture "shall be considered a new product as manufactured on new equipment after April 7, 1964; the equipment used to perform such work shall be considered new equipment and such work shall be considered a product not manufactured by the Company prior to April 7, 1964, as referred to under Section 15 of the July 1, 1962, Company-Union Agreement, as amended by the Revised Memorandum of Agreement, dated August 20, 1964."

Following the Memorandum of Understanding, the shipping and packing and minor repair of strapping tools were returned to Heidelberg. The strapping tools themselves were still obtained from Tool Room Products, but were now sent to the Heidelberg plant, from where they were sent together with the strapping, in one bulk shipment to customers. This work added three jobs which were included in the existing production and maintenance unit.

In April 1967, the Employer announced the establishment of a new plant at Arden Industrial Park to manufacture strapping tools. Arden is about 18 to 20 miles from Heidelberg. Since the opening of this new plant the Employer has continued the practice of having the finished tools sent to Heidelberg, where they are given a final inspection, packaged, and mailed out with the steel strapping.

The Union demanded recognition as bargaining representative of the employees at Arden as part of

<sup>1</sup> In light of our disposition of these cases, we deny the Employer-Petitioner's "Motion to Reopen Record."

the unit in existence at Heidelberg, claiming that the work done at Arden was a return of work done at Heidelberg until 1959 and thus an accretion to the Heidelberg unit. The Employer refused recognition on the ground that the work was not an accretion to the existing unit, but was a new operation.

The existing bargaining unit is "All employees of the Company employed in or about the Company's manufacturing plant in Heidelberg, Pennsylvania, excluding salaried employees, foremen, assistant foremen, watchmen, guards, or such others mutually agreed upon." The Employer filed a petition for an election in Case 6-RM-334 for all production and maintenance employees at the Arden plant, excluding all office clerical employees and guards, professional employees, and supervisors.

However, the Union, in requesting recognition as bargaining representative for the employees at Arden, had requested only that they be a part of the existing unit at Heidelberg. There being no request to represent the employees at Arden in a separate unit, we find that no question concerning representation has been raised in Case 6-RM-334, within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act, and, accordingly, we shall dismiss the petition.<sup>2</sup>

4. The Employer also filed a petition in Case 6-UC-13, requesting that the unit at Heidelberg be clarified by providing for the specific exclusion of "All production and maintenance employees at the Company's plant at the Arden Industrial Park in Washington County, Pennsylvania." On the other hand, the Union, in Case 6-UC-14, filed a petition for unit clarification, seeking to include these production and maintenance employees of the Arden, Pennsylvania, facility with the employees at Heidelberg.

While the Arden plant will ultimately employ 12 persons, it had a work force of 6 as of the date of the hearing. All of these employees were new hires, none of whom had worked at Heidelberg. Only the plant manager and foreman were transferred from Heidelberg. However, the hiring of personnel was carried on by the Employer's director of personnel relations, who was also manager of industrial relations for the Heidelberg plant, and by the Employer's director of research and development. The director of research and development has the overall responsibility for the operations at the Arden plant and reports directly to the president of the Company. In like manner, the plant manager at Heidelberg reports directly to the company president.

The principal piece of equipment at Arden is a new machine which has been on the market for only 3 years, called "Milwaukee Matic," which is a tape controlled machine. While the nature of the tools being produced at Arden (strapping tools which tighten, join, and cut steel bands) may be the same as those produced prior to 1959 at Heidelberg, the majority of such tools are now pneumatically or electrically powered, whereas formerly they were handtools.

There are some factors which would tend to support the position that the employees at Arden are an accretion to the contract unit at Heidelberg. The job categories that will be in use at Arden are production machine operators, assemblers, electrical and mechanical repairmen, shipping and receiving clerk, tool-and-die man, and control machine operators. Those former tool department employees, who are still employed at Heidelberg, were machine operators, setup men, tool-and-die makers, and assemblers. Thus, it would appear that some categories to be used at Arden were formerly used at Heidelberg. The product being produced is for the same purpose as that which was formerly produced; however, it is of an advanced technological nature. Also the tools produced at Arden will be sent to Heidelberg, where they will be shipped to customers; however, the same procedure was followed when the tools were produced by a contractor. Finally, paychecks are made up at Heidelberg, although it would appear that the records of Arden employees are kept at Arden and that such employees are paid at Arden.

Upon consideration of the entire record, however, we believe that the employees in the Employer's new strapping tool production operation at Arden are not an accretion to the existing unit at Heidelberg. We note especially the changed and advanced nature of the process by which the strapping tools are manufactured as well as the substantially different nature of the tools themselves. Also we note that the operation at Arden has been staffed, below the level of foreman, entirely with new employees, and that there is no employee interchange between the Arden and Heidelberg plants. The Arden plant was stocked with new equipment. The two plants are separately supervised by higher management officials, and there is an 18-to 20-mile distance between them. The parties' collective-bargaining contract contains no provision requiring its application to the Arden operation and the wages, hours, fringe benefits, and other working conditions at Arden are substantially

<sup>2</sup> *Amperex Electronic Corporation*, 109 NLRB 353

different from those at the Heidelberg plant. In all the circumstances, we find that the Arden plant is not an accretion to the Heidelberg plant unit,<sup>3</sup> and we shall accordingly dismiss the Union's petition for unit clarification in Case 6-UC-14.

It is thus clear that, as contended by the Employer, the appropriate unit consists of only the employees at the Heidelberg plant, and since the unit description as it appears in the contract clearly is limited to the Heidelberg plant employees, we find

it unnecessary to issue an order in connection with the Employer's petition in Case 6-UC-13 for unit clarification, and therefore dismiss the petition.

#### ORDER

IT IS HEREBY ORDERED that the petitions in Cases 6-RM-334, 6-UC-13, and 6-UC-14 be, and they hereby are, dismissed.

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<sup>3</sup> See *Pullman Industries, Inc.*, 159 NLRB 580.