

**National Can Corporation and Lithographers and Photoengravers International Union, AFL-CIO.**  
Case 8-UC-22

April 1, 1968

**DECISION ON REVIEW AND ORDER**

BY CHAIRMAN McCULLOUGH AND MEMBERS  
JENKINS AND BROWN

On October 17, 1967, the Regional Director for Region 8 issued his Decision and Order in the above-entitled proceeding, in which he dismissed Petitioner's request to clarify the unit of lithographic production employees for which Petitioner's predecessor was certified in 1962. The Regional Director dismissed the clarification petition on the ground that the employee classification of relief feeder, offset presses-plate and ink man (hereinafter called the relief man)—which Petitioner seeks to add to this unit—by its clarification request cannot be considered as an accretion to it. Thereafter, the Petitioner, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, filed with the National Labor Relations Board a timely request for review. By telegraphic order dated November 27, 1967, the Board granted the request for review. Petitioner subsequently filed a brief.

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

The Board has considered the entire record in this case with respect to the issue under review, and makes the following findings:<sup>1</sup>

In 1960, the United Steelworkers of America, AFL-CIO, was recognized in a production and maintenance unit of the Employer's employees at its Warren, Ohio, facility, here involved. In 1962, Petitioner's predecessor filed a petition in Case 8-RC-4859 for an election to sever the lithographic production employees from the Steelworkers unit. Among other classifications which Petitioner's predecessor sought to include in the unit to be severed was that of the relief man, then known as the platemank receiver-relief press feeder. However, at the hearing which was held on September 26, 1962, the testimony indicated that the relief man position was then only being filled on a temporary basis and was expected to be vacated

shortly. The Regional Director, accordingly, declined to determine the unit placement of this classification.<sup>2</sup> Petitioner's predecessor won the severance election and was certified on November 15, 1962, to represent the lithographic production employees.

The record of the present clarification proceeding indicates that, contrary to expectations at the previous hearing, the Employer's lithographic work has remained at a high production level and that the relief man position was never vacated. In point of fact the same individual who worked as the relief man during the summer of 1962 continues to hold this position and to perform the same functions. The relief man classification is included in the Steelworkers unit and the individual is a member of that labor organization. The record of the present proceeding does not show that Petitioner took any steps to have the relief man included in the lithographic production unit prior to the filing of its present clarification petition in September 1967.

As found by the Regional Director, the relief man, whose duties have changed little since 1962, receives the plates (which are manufactured in another of the Employer's plants), cuts them to size, stores them, and furnishes them to the pressmen as needed. After the plates have been used they are given back to the relief man, who treats them and returns them to storage. The relief man also records materials received, checks production orders, and maintains the departmental file of lithography specifications. These storage and clerical duties require 5-1/2 to 6 hours of the relief man's workday.

The relief man spends an additional 1-1/2 hours per day filling in for the press feeders while the latter are on coffeebreaks. If a lithographic pressman or feeder is absent from work—and this may occur as often as once per week—the relief man substitutes for him until a regular relief feeder, represented by Petitioner, can be brought out to the plant. Since the relief man has had no formal training in pressman's work, he merely attends the press on these occasions when he is required to fill in. The regular press feeders, on the other hand, have all undergone a 4-year apprenticeship, and are qualified to, and do, assist the pressmen to set up, changeover, and adjust presses and to wash them down.<sup>3</sup>

The relief man is supervised directly by the plant superintendent except for those occasions when he works as a relief feeder under the direction of the

<sup>1</sup> In accordance with the agreement of the parties, who are the same as the parties in Case 8-RC-4859, we have taken official notice of the record in that proceeding.

<sup>2</sup> See the Regional Director's Amended Decision and Direction of Elec-

tion which issued on November 2, 1962.

<sup>3</sup> The relief man also performs some janitorial work on occasion and is responsible to receive and store ink supplies. He does not mix inks.

lithographic production foreman. The relief man's desk is located near the lithographic presses. When he is ill or on vacation he is replaced by employees from the Steelworkers unit. The relief man is paid about 40 cents less per hour than the regular feeders.

In attacking the Regional Director's dismissal of its clarification request, Petitioner essentially argues that all it seeks to accomplish is to correct the error in the record of the 1962 proceeding, which it says, resulted in the Regional Director's failure to include the relief man's classification in the lithographic production unit at that time. That is, Petitioner contends, if the record in 1962 had shown that the relief man's classification was to be a permanent position—as it turned out to be—then this classification would have been included in the lithographic production unit for which Petitioner's predecessor was certified.

We disagree with Petitioner's contention that the relief man would have been included in 1962 if it had then been known that his position was a permanent one. We find instead that his duties then and now are not primarily concerned with the lithographic production process and that he would, in any event, have been excluded from the unit of lithographic production employees found appropriate. His principal duties are plant clerical or custodial in nature, and the Board normally excludes employees with such functions from a lithographic unit.<sup>4</sup>

Moreover, even those of the remaining duties which may be characterized as being concerned

with the lithographic production process are performed in a manner which sets him apart from other lithographic production employees. Thus, on those occasions when he relieves the regular press feeders, he does not handle the skilled tasks normally performed by the latter in assisting the pressmen. Further, he does not mix ink used in the printing process—although he receives and stores it—and his duties to cut lithographic plates and to treat them for storage are not shown to involve any particular skill. Finally, he has not undergone any apprenticeship training and he does not appear to be in the line of progression to any of the traditional lithographic production jobs.<sup>5</sup>

Since the relief man's duties were not such as to have required his inclusion in 1962, have not changed essentially since that time, and as Petitioner has made no attempt to represent the relief man for 5 years, we find, in agreement with the Regional Director, that the relief man cannot presently be added to the lithographic production unit by way of the unit clarification procedure. Accordingly, we shall dismiss the petition.

#### ORDER

It is hereby ordered that the petition be, and the same hereby is, dismissed.

Member Brown, dissenting:

I would grant the clarification petition and include the relief man in the lithographic production unit.

<sup>4</sup> See *Miller & Miller, Inc.*, 132 NLRB 1530, where the Board excluded a lithographic clerk who catalogued, filed, and maintained a library of plates because her work was essentially that of a plant clerical employee. See also *Allen, Lane & Scott, et al.*, 137 NLRB 223, when the Board excluded quality control employees, maintenance men, janitors, floor boys, paper stock handlers, porters, clerical employees, and others (whose duties are described variously as being "associated with the printing process" or "functionally related to press work") on the ground that employees in these classifications were not predominantly engaged in the lithographic process. Both *Miller & Miller, Inc.*, and *Allen, Lane & Scott* were decided prior to the Regional Director's Decision herein 1962.

<sup>5</sup> See *Burroughs Corporation, The Todd Company Division*, 139 NLRB 347, 349-350, fn. 6, where the Board quoted an excerpt from the Supplemental Decision in *Shumate, Incorporated* (not published in NLRB volumes). As the Board there noted, even though roll warehousemen were included in the lithographic production unit in the original *Shumate* decision, 131 NLRB 98, 99, fn. 3, the Board excluded these employees from that unit in the Supplemental Decision on the grounds that "they are principally engaged in warehousing, shipping and receiving functions, they spend little time in performing functions which are integral to the lithographic production process, and they are not in direct line of progression