

**The National Cash Register Company and NCR
Employees' Independent Union, Petitioner. Case
9-UC-36**

February 11, 1970

**DECISION AND ORDER CLARIFYING
UNIT**

BY MEMBERS FANNING, BROWN, AND JENKINS

Upon a petition for clarification of unit duly filed by NCR Employees' Independent Union on June 12, 1969, a hearing was held on September 12, 1969, before Hearing Officer Joseph T. Perry of the National Labor Relations Board. On October 2, 1969, the Regional Director for Region 9 issued an order transferring the case to the Board. Thereafter, briefs were timely filed by the Employer and the Petitioner.

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 Union involved herein is a labor organization within the meaning of the Act, and claims to represent certain employees of the Employer.

3. The Petitioner seeks clarification of the unit placement of compounders who, it contends, properly belong in an office and technical unit at the Employer's Dayton, Ohio, plant, which it currently represents. The Employer contends that the compounders properly belong in a production and maintenance unit at the Dayton plant, which the Petitioner also represents.

The Employer is a Maryland corporation primarily engaged in the manufacture of cash registers, adding machines, accounting machines, data processing equipment, and other related business equipment in Dayton, Ohio. It is also engaged in the manufacture of chemical products in its Manufacturing Lab Department, which is the Dayton production facility for the Employer's Special Products Division of its Research and Development Division. The Manufacturing Lab Department houses the compounders, who are engaged in the manufacture and preparation of a variety of chemical products, including porous rubber, mixing inks and polishes, and varnishes.

Since 1939, the Petitioner has represented a production and maintenance unit of 15,000 predominantly hourly rated employees at the Dayton plant, pursuant to successive Board certifications, the latest of which issued in September 1968.¹ Since 1964, the Petitioner has also represented an office and technical unit of 2,000 predominantly salaried employees, including the disputed employees herein, who until October 1968, were classified as manufacturing chemists.²

In October 1968, just before the commencement of negotiations on the current contract covering the production and maintenance unit, effective December 17, 1968, the Employer reclassified the employees from their former title of manufacturing chemists to their present designations of compounders, field service, and compounders, encapsulated processes; changed their ratings from salaried to hourly, and sought to place them in the production and maintenance unit. Thus Appendix 1 of the contract lists compounders as hourly paid employees, and a supplement agreement, permitting the parties to review alleged errors in the rating of hourly jobs, lists compounders as hourly paid, in an exhibit attached thereto. According to the Employer, these hourly ratings and unit changes were pursuant to the agreement of the parties; the Petitioner, however, contends that these changes were not meant to be a final disposition of the unit placement of compounders, a matter which was in fact left open for further discussion. The record leaves this question unresolved.

Compounders, field production, are engaged in compounding porous rubber, inks, adhesives, cleaners, varnishes, lubricants, and other solutions and compounds for manufacturing and other uses. Compounders, encapsulated processes, compound encapsulated materials such as emulsions, pharmaceutical supplies, and other solutions and compounds for direct sale to customers and other uses. Both classifications, working pursuant to operation cards, specifications, and oral instructions, weigh materials, mix prescribed chemicals or raw materials in accord with established procedures, operate and check valves and gauges to insure proper timing and mixture of contents, maintain necessary records of materials processed, move materials into, within, or between departments, and spend 5 to 10 percent of their time packaging, labeling, and placing products in storage. In

¹The National Cash Register Company, 168 NLRB No 130 Although in that case the Board made several unit determinations as to the placement of office, technical, and nontechnical classifications in the production and maintenance unit, the Employer concedes that through an oversight it did not in that case place in issue the unit status of the employees here in issue.

²The Employer states that in 1964 it initially consented to the inclusion of the compounders, as manufacturing chemists, in the office and technical unit because the chemicals which they now produce were developed by the Research and Development Division, which, except for large numbers of professional employees, consists of primarily clerical and technical employees.

addition, the compounders, encapsulated processes, watch for variations in chemical reaction, temperature, or machine operation, and make changes in procedure according to established processes. The compounders follow detailed instructions in all of their work, do not regularly perform research or development work, and spend the majority of their time in production work.³ College training or its equivalent is not required for their work, although some of them have college-level training in chemistry or physics. They are recruited from the production and maintenance unit, but do not progress to higher office and technical classifications.

The compounders perform the same duties now as in 1964, when as manufacturing chemists they were first assigned to the office and technical unit. They work on hazardous products substantially different in character from those prepared by the production and maintenance employees. Their work areas are separated from those of the production and maintenance employees and the office and technical employees.⁴ They are under separate exclusive immediate and intermediate supervision, which in turn is responsible to the director of the Special Products Division. For some 4 years they have enjoyed the same salaried ratings as the office and

clerical employees and benefits which differ somewhat from those of the production and maintenance employees.⁵

In the above circumstances, and absent a cogent reason for disturbing the apparently satisfactory bargaining history of 4 years' duration, we find insufficient grounds for removing the compounders from the office and technical unit.⁶ We shall, therefore, clarify the unit accordingly.

ORDER

It is hereby ordered that Petitioner's request for clarification be granted, and the unit of office and technical employees represented by NCR Employees' Independent Union is hereby clarified by specifically including therein the categories of compounder, field service, and compounder, encapsulated processes.

³Only occasionally do they routinely assist chemists engaged in experimental work in other areas

⁴Twelve of the compounders are the only occupants of two plant buildings, the other 12 compounders work on the second and third floor of another plant building

⁵These differences include paid sick leave, excused absences, and a different level of insurance benefits

⁶See *Pacific Northwest Bell Telephone Company*, 178 NLRB No 118