

## IDEAL SUPER MARKETS

**Ideal Super Markets, a Division of Allied Super Markets, Inc., a Delaware Corporation, of Detroit, Michigan and Amalgamated Meat Cutters and Butcher Workmen of North America, Local 340, AFL-CIO, Petitioner.** Case 17-RC-5607

April 24, 1968

### DECISION AND ORDER

BY CHAIRMAN McCULLOCH AND MEMBERS FANNING  
AND ZAGORIA

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Joseph M. Logan. 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, and by direction of the Regional Director for Region 17, this case was transferred to the National Labor Relations Board for decision. No briefs have been filed by the parties.

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 National Labor Relations 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 parties stipulated, and we find, that the Employer is engaged in commerce within the meaning of the Act, and that it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The Petitioner is a labor organization within the meaning of the Act and 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 Section 9(c)(1) and Section 2(6) and (7) of the Act, for the reasons discussed *infra*.

The Petitioner seeks to represent a single unit of delicatessen department employees at the Employer's two stores in Liberal, Kansas, or, in the alternative, requests that the delicatessen employees be added to the existing two-store unit of meat department employees.<sup>1</sup> The Employer contends that

the unit sought is inappropriate, primarily because the delicatessen employees share a close community of interests with the employees in other departments of the stores.

The Employer, a Delaware corporation, operates a chain of supermarkets throughout the United States. Included therein are the two stores in Liberal, Kansas, involved in this proceeding. The North Kansas store, which is about 2 miles distant from the South Kansas store, employs 19 grocery personnel, including the store manager; 6 meat department employees, including the market manager; and 6 sales employees in the bakery and delicatessen departments. The South Kansas store employs 20 grocery personnel, including the store manager; 5 meat department employees, including the market manager; 7 sales employees in the bakery and delicatessen departments; and one delicatessen production employee, who works at the warehouse.

In the North Kansas store, the delicatessen and bakery departments are operated as a single entity. They are contiguous to each other, without any physical separation. A lead clerk is assigned to each department. The lead clerk in the delicatessen department oversees the work of one full-time and one part-time employee. At the South Kansas store, the bakery and delicatessen departments are not contiguous; the record does not indicate the number of employees assigned specifically to the delicatessen or bakery departments at South Kansas. The delicatessen employees at both stores prepare a complete meal for the customer. They operate a steamtable, at which they prepare such items as barbecued chicken, spareribs, and fried chicken. These employees do not slice meat, the foods being prepared from packaged products. Salads and Jellos are prepared in the warehouse area and forwarded to the delicatessen department. While the delicatessen employees are assigned to the delicatessen department and the bakery employees are assigned to the bakery department, nevertheless, at both locations, there is interchange of these employees during the lunch period and at peak sales periods. On the other hand, the delicatessen employees contact the meat department only infrequently, such as to seek advice on the preparation of meats, and, on rare occasions, to fill in as meatwrappers.

Unlike the meat department employees, the delicatessen employees and the bakery employees wear a smock uniform, which is red in color. They

<sup>1</sup> The record reflects that on November 28, 1967, pursuant to a consent-election agreement between the parties (Case 17-RC-5543), the Regional Director issued a Certification of Representative to the Petitioner as the exclusive bargaining representative of employees in the meat departments of

the Employer's two stores in Liberal, Kansas. The unit included the head meatcutter, meatcutters, and meatwrappers, but excluded office-clerical, professional employees, guards, box boys, grocery, produce and delicatessen employees, and supervisors as defined in the Act

are initially employed at the minimum wage rate, need not possess any special qualifications, and require but little training before assuming the job. All store personnel are directly responsible to the store manager, although it appears that the Employer utilizes district supervisors to direct the presentation of sales in the various departments. All store personnel receive the same fringe benefits, such as hospitalization and life insurance, and punch the same timeclock.

The Board has traditionally found, in appropriate circumstances, that a separate unit of meat department employees in a retail grocery store, a unit the Petitioner currently represents, and a separate unit of employees in the remaining departments of the store, are appropriate units.<sup>2</sup> Here, the Petitioner, which has been certified as exclusive bargaining representative of the meat department employees, seeks to carve out of the remaining employees in the stores a unit of delicatessen department employees. However, the delicatessen department employees work in close association with the bakery department employees, whom the Petitioner does not seek to represent, and both the delicatessen department employees and the bakery department employees share a substantial community of interests with the other employees in the stores, exercising similar skills, working like hours, receiving

the same fringe benefits, and working under the same overall supervision of the store manager. Under these circumstances, we find that the delicatessen employees sought by the Petitioner constitute an artificial or arbitrary grouping of employees with insufficient interests to warrant separate representation.<sup>3</sup> Moreover, we find no merit in the Petitioner's alternative unit position that the delicatessen employees be accorded a self-determination election to ascertain whether they wish to be added to the existing meat department unit, since the delicatessen employees seldom, if ever, work in association with the meat department employees, and it is otherwise apparent that the delicatessen employees have terms and conditions of employment more closely associated with those of the other unrepresented employees in the Employer's employ.<sup>4</sup>

Under the entire circumstances, we find the separate unit sought here, and, alternatively, the voting group sought, to be inappropriate for the purposes of collective bargaining, and we shall, therefore, dismiss the petition.

#### ORDER

It is hereby ordered that the petition filed herein be, and it hereby is, dismissed.

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<sup>2</sup> See, e.g., *The Great Atlantic & Pacific Tea Company, Inc.*, 132 NLRB 744, *Bruno's Food Store, Incorporated*, 131 NLRB 1023

<sup>3</sup> See, e.g., *Cupples Company Manufacturers*, 127 NLRB 1457

<sup>4</sup> See, e.g., *The Boeing Co.*, 169 NLRB 916