

**Chrysler Corporation (Airtemp Division)<sup>1</sup> and International Union of Electrical, Radio and Machine Workers, AFL-CIO-CLC and its Professional, Technical and Salaried Conference Board, Local 758, Petitioner.** Cases 9-UC-52, 9-RC-8851, 9-RC-8852, 9-RC-8853, and 9-RC-8854

August 27, 1971

**DECISION, ORDER, AND DIRECTION  
OF ELECTION**

BY MEMBERS FANNING, BROWN, AND  
KENNEDY

Upon petitions duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officers Daniel J. Roketenetz and William A. Molony. Thereafter, pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations, and by direction of the Regional Director for Region 9, these cases were transferred to the National Labor Relations Board for decision. Briefs were timely filed by the Employer and the Petitioner.

On May 14, 1971, the Board issued an Order granting the Employer's request to reopen the record and remanding the proceeding to the Regional Director for a further hearing concerning the status of industrial engineers as professional employees. Pursuant to the Board's Order, a further hearing was held before Hearing Officer Molony.

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 these cases to a three-member panel.

The Board has reviewed the rulings of the Hearing Officers made at the hearings and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in these cases, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the policies of the Act to assert jurisdiction herein.
2. The labor organization involved claims to represent certain employees of the Employer.
3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9(c)(1) of the Act.
4. The Petitioner seeks to clarify an existing unit of technical employees at the Employer's Dayton, Ohio, facilities<sup>2</sup> by including herein the industrial

engineers employed at the Dayton facilities. Alternatively, it seeks to represent the industrial engineers in a separate unit.<sup>3</sup> In addition, the Petitioner seeks either to represent the clerical employees in the industrial engineering department in a separate unit or to combine them with the industrial engineers in a departmental unit. The Employer contends that all of these units are inappropriate since the clerical employees are confidential and the industrial engineers are either supervisors or managerial or confidential employees. In any event, it contends, the unit clarification petition should be dismissed, since the job classifications in question were in existence at the time of the Petitioner's certification and were specifically excluded from the certified unit by agreement of the parties. The parties have stipulated that any industrial engineers whom the Board finds not to be supervisors or managerial or confidential employees are entitled to a self-determination election to determine whether they wish to be included in the existing technical unit or in any other appropriate unit.

The Employer is engaged in the manufacture of heating equipment and air conditioners for automotive, commercial, and residential use. Its Dayton facilities consist of two separate plants. Approximately 20 industrial engineers work in the main plant at Webster Street, which houses commercial and automotive air conditioning, and approximately 4 industrial engineers work in the plant on Kurtz Road, which houses residential air conditioners. The functions of industrial engineers are essentially the same in both plants.

The employees in the industrial engineering department are classified in the following order of progression: junior time study man; methods and standards analyst; methods engineer B; methods engineer A; methods and standards engineer senior; and industrial engineering specialist. The basic function of industrial engineers is to ensure that the Employer's operations are carried out with maximum efficiency. To accomplish this objective, they make time studies to determine how long it takes to perform a given operation or how many operations can be completed in a given period of time, and they conduct work samples to determine the number of employees required to achieve a given level of production. On the basis of these studies, the industrial engineers recommend man assignments which may involve additions or cutbacks in the work force of a department. They also determine whether the purchase of new equipment will reduce operating

<sup>1</sup> The name of the Employer appears as amended at the hearing.

<sup>2</sup> The Petitioner was certified as the bargaining representative for the employees in this unit on September 26, 1960, in Case 9-RC-4160 (not published in NLRB volumes).

<sup>3</sup> The petition in Case 9-RC-8853 seeks a unit of industrial engineers employed in the manufacturing services department. As there is no evidence that any industrial engineers work in this department, we shall dismiss this petition.

costs, whether such equipment is needed to meet projected output, and whether the best possible use is being made of existing equipment. In addition, they determine the probable cost of launching a new product.

The duties of industrial engineers necessarily involve considerable contact with employees in other units represented by the Petitioner. The junior time study man and the methods and standards analysts are on the same payroll as employees in other units. However, the other industrial engineers are on the administrative or management payroll and receive substantially higher salaries and greater fringe benefits than employees in the existing technical unit.

In general, the function of industrial engineers is to save money for the Employer. Accordingly, whenever they find that work standards are not being met, or that the best possible use of a given piece of equipment is not being made, they make appropriate recommendations to correct the situation. Similarly, when it is proposed that new equipment be purchased or a new method of operation be utilized, the industrial engineers may recommend less costly alternatives. Such recommendations affect the conditions of employment of other employees; they may result in changes in man assignments, transfer of employees to different jobs, or changes in a department's manpower which require hiring, transferring, or laying off employees. However, the industrial engineers do not assign work to a particular employee or determine his rate of pay. They recommend increases or decreases in total manpower, but not the hiring, transfer, or layoff of particular employees; the personnel department makes that decision. If an industrial engineer sees that an employee is not meeting the current work standards, he may inform the foreman of this fact, but it is the foreman who decides whether to give the employee a verbal warning or to transfer him to another job. The industrial engineers seek to eliminate overtime whenever possible, and each week they report which employees in which departments have worked emergency overtime because of unforeseen situations such as a machine breakdown or a material shortage. However, the industrial engineer only tells the foreman of a department how much overtime he deems necessary, not which employees should work overtime.

An employee who feels he cannot meet the

production standard may file a grievance. The dispute usually centers around the rating factor used in setting the standard. There are also many grievances over the classification of employees. At the first step of either type of grievance, the responsible industrial engineer seeks to settle the grievance with the Petitioner's time study representative. In some such cases, an industrial engineer has made concessions to settle grievances. A grievance not settled at this stage may be processed further in accordance with the contractual grievance procedure which provides for technical assistance, including comparison of studies and computations, by industrial engineers representing the Employer and the Petitioner. However, decisions at later stages of the grievance procedure are not made by the industrial engineers, but by other representatives of the Employer and the Petitioner.

We have held in a number of prior cases that employees with duties similar to those of the industrial engineers herein were entitled to be represented for collective-bargaining purposes if they so desired. Thus, the fact that such employees may establish and determine production or performance standards;<sup>4</sup> make time studies which are used to determine rates of pay;<sup>5</sup> suggest methods changes to increase efficiency and reduce costs;<sup>6</sup> adjust the standards to resolve a grievance;<sup>7</sup> and make studies which are relied on in resolving grievances<sup>8</sup> does not indicate that they are managerial employees or that they supervise other employees in the statutory sense. We have likewise rejected the contention that such employees are confidential employees.<sup>9</sup> Accordingly, we find that the industrial engineers herein are not supervisors or managerial or confidential employees. In accordance with the stipulation of the parties, we shall direct a self-determination election to determine whether these employees wish to be included in the existing technical unit or to form a separate unit.<sup>10</sup>

The parties stipulated that the following individuals in the Webster Street building are supervisors: The manager of the industrial engineering department, the manager of direct labor standards, the manager of organizing and operating expense standards, and four unit supervisors. They further stipulated that the following individuals at the Kurtz Road building are supervisors: The industrial engineering supervisor for the building, the manager of manufacturing services, the manager of the distribution center

<sup>4</sup> E.g., *Chapman Valve Manufacturing Co.*, 119 NLRB 935, 937; *Westinghouse Electric Corp.*, 89 NLRB 8, 11.

<sup>5</sup> E.g., *Westinghouse Air Brake Co.*, 119 NLRB 1391, 1393; *Chapman Valve Manufacturing Co.*, *supra*; *Timken Detroit Axle Co.*, 80 NLRB 1075, 1077.

<sup>6</sup> E.g., *Westinghouse Air Brake Co.*, *supra*; *F. W. Sickles Co.*, 81 NLRB 390, 400; *Bulldog Electric Products Co.*, 96 NLRB 642, 644.

<sup>7</sup> E.g., *Chapman Valve Manufacturing Co.*, *supra*.

<sup>8</sup> E.g., *Westinghouse Electric Corp.*, *supra*; *Timken Detroit Axle Co.*, *supra*.

<sup>9</sup> E.g., *Timken Detroit Axle Co.*, *supra*; *Brown and Sharpe Manufacturing Co.*, 68 NLRB 487, 489.

<sup>10</sup> In view of the parties' stipulation that the industrial engineers are entitled to a self-determination election, we shall dismiss the petition in Case 9-UC-52, in which the Petitioner requested that the existing technical unit be clarified by including the industrial engineers therein.

of the Kurtz Road building, and the supervisor of service parts. Accordingly, we shall exclude these individuals from the voting group herein.

The Employer further contends that the industrial engineering specialist and one methods and standards engineer A, Gabringer, are supervisors. The industrial engineering specialist reports directly to the manager of industrial engineering. He receives a higher pay rate than any other employee in the industrial engineering department, including the unit supervisors whose supervisory status was stipulated. As chairman of a committee composed of supervisory and managerial personnel from various departments, he is responsible for implementing a plant-wide methods improvement program. He also conducts organizational studies of the Employer's defense operations and recommends restructuring of the organization, and develops plans for reducing the inventory in these operations. In carrying out his functions, he directs a group of 2 to 10 employees from various departments who have been assigned as a task team. We find that he is a supervisor and exclude him from the voting group.

Gabringer's function differs from that of the unit supervisors, who oversee the work of the industrial engineers under them, and have authority to transfer or terminate industrial engineers. He gathers information from all of the industrial engineers and uses it to forecast the Employer's manpower needs over a 5-month period. These forecasts are used to determine whether to purchase equipment or authorize overtime. We conclude that his work affects the working conditions of other employees only in the same manner and to the same extent as the work of the other industrial engineers whom we have found to be nonsupervisory. Accordingly, we find that Gabringer is not a supervisor and include him in the voting group.

The Petitioner contends that the industrial engineering department has three office clerical employees: a junior time study man, a machine operator B, and a stenographer. The Employer contends that the junior time study man is being trained for a position as an industrial engineer and that the other two office clerical employees are confidential employees. The junior time study man makes records of routing sheets which come in from other departments and checks the time and figures on routings to make sure that they correspond with the current work standards. After the information is typed up, he sends the routing on to a unit supervisor. By doing this work, the junior time study man becomes familiar with the administrative aspects of industrial engineering work. He has had 2 years of industrial engineering

courses in college and is continuing his studies at the Employer's expense; it is expected that he will eventually qualify as an industrial engineer. At least one of the methods and standards analysts in the voting group herein was promoted to that position from the position of junior time study man. On the basis of these facts, we conclude that the junior time study man, as a trainee for a position as an industrial engineer, has a community of interest with the industrial engineers rather than with the clerical employees, and should be included in the voting group with the industrial engineers.

The stenographer, after passing a test for this classification, became a secretary to the manager of organization and operating expense standards. In this position, she performs the same functions as other secretaries to managers, whom the parties agreed to exclude from any unit found appropriate. Accordingly, we conclude that the stenographer cannot be included in any bargaining unit. This leaves the machine operator B as the only employee in the industrial engineering department who could be included in a clerical unit. As the Board does not certify bargaining units composed of only one employee,<sup>11</sup> we shall dismiss the petition in Case 9-RC-8854, which seeks a unit of all clerical employees in the industrial engineering department. In addition, since it is clear that the machine operator B, who performs general typing and filing duties, does not possess a sufficient community of interest with the industrial engineers to be included with them in a departmental unit, we shall dismiss the petition in Case 9-RC-8851, which seeks a unit of all employees in the industrial engineering department.

Accordingly, we shall make no final unit determination at this time, but, as provided below, shall direct an election among those in the following voting group:

All industrial engineers employed at the Employer's Dayton, Ohio, facilities, including methods and standards engineers senior, methods engineers A, methods engineers B, methods and standards analysts, and the junior time study man, but excluding the industrial engineering specialist, secretaries to managers, clerical employees, guards and supervisors as defined in the Act, and all other employees.

The employees in the voting group will be asked two questions on the ballot: (1) Do you desire to be included in a unit with the technical employees at the Employer's Dayton, Ohio, facilities for the purposes of collective bargaining? (2) Do you desire to be represented for the purposes of collective bargaining

<sup>11</sup> *Luckenbach Steamship Co.*, 2 NLRB 181, 193.

by International Union of Electrical, Radio and Machine Workers, AFL-CIO-CLC and its Professional, Technical and Salaried Conference Board, Local 758?

If a majority of the employees in the voting group vote for the Petitioner, and a majority vote for inclusion in the existing technical unit, we find that a single unit, including the employees in the voting group and the employees in the existing unit which was certified in Case 9-RC-4160, will constitute a unit appropriate for the purposes of collective bargaining, and the Regional Director will issue a Certification of Representative to the Petitioner for such unit. If a majority of the employees in the voting group vote for the Petitioner but do not vote for inclusion in the existing unit, we find that the

employees in the voting group will constitute a separate unit appropriate for the purposes of collective bargaining. If a majority of the employees in the voting group do not vote for the Petitioner, the employees in the voting group will remain unrepresented irrespective of the outcome of the vote on the first question.

#### ORDER

It is hereby ordered that the petitions filed in Cases 9-UC-52, 9-RC-8851, 9-RC-8853, and 9-RC-8854 be, and they hereby are, dismissed.

[Direction of Election<sup>12</sup> omitted from publication.]

<sup>12</sup> In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear Inc.*, 156 NLRB 1236; *N.L.R.B. v. Wyman-Gordon Co.*, 394 U.S. 759. Accordingly, it is hereby directed that an election eligibility list, containing the names and addresses of all the eligible voters, must be filed

by the Employer with the Regional Director for Region 9 within 7 days of the date of this Decision and Direction of Election. The Regional Director shall make the list available to all parties to the election. No extension of time to file this list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.