

Walgreen Co. and Retail Clerks Union Local No. 1625, chartered by Retail Clerks International Association, AFL-CIO,¹ Petitioner. Case 12-RC-4036

August 30, 1972

DECISION ON REVIEW

BY MEMBERS FANNING, KENNEDY, AND
PENELLO

On March 28, 1972, the Regional Director for Region 12 issued a Decision and Direction of Election in the above-entitled proceeding, the pertinent part of which is attached hereto as an appendix, in which he found appropriate the Petitioner's requested unit of certain employees employed by the Employer at its store and grill located at 12295 Biscayne Boulevard, North Miami, Florida. Thereafter, the Employer filed a timely request for review of the Regional Director's decision, together with a supporting brief, alleging that the Regional Director made erroneous findings of fact and departed from established policy.

On April 25, 1972, by telegraphic order, the request for review was granted and the election stayed pending decision on review.

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

The Board has considered the entire record in this case with respect to the issues under review, and hereby affirms the Regional Director's Decision and Direction of Election, with the following addition.

In support of its contention that a single-store unit is inappropriate the Employer relies in part on the Board's recent decision in *Gray Drug Stores, Inc.*, 197 NLRB No. 105. In that case the Board majority found, on the record therein, that the presumption that a single-store unit is appropriate had been rebutted and that an appropriate unit would include employees in the employer's drugstores in Dade County (the Miami metropolitan area) and Broward County (the Fort Lauderdale metropolitan area).² Although there are obvious parallels between that and the instant cases, particularly that both cases

arise from the same geographic area and both involve the scope of units in retail drugstore chains having highly centralized operations, the cases are readily distinguishable.

The record in the instant proceeding shows that district management, while maintaining overall authority, is not involved in the day-to-day store operations to the extent that central management was in *Gray Drug Stores*. In *Gray Drug Stores*, central management visited each store two to three times per week. In the instant case, the district store manager (who has no authority over grill operations) visited each store in the district only about once a month, as did the district grill manager (who has authority only over grill operations). Also an assistant to each district manager visited each store less frequently but for longer periods.

In addition, the record herein reveals that a manager at the store level exercises significantly greater authority over the store's day-to-day operations than his counterpart in *Gray Drug Stores*. For example, unlike the store managers in *Gray Drug Stores*, Walgreen's store-level managers regularly hire most of the unit employees. The only unit employees regularly hired at the district level are cosmeticians.

On the basis of the record as a whole, particularly the relatively infrequent visits by central management to individual stores, the autonomy of individual store managers, and the absence of substantial interchange, we find, as did the Regional Director, that the presumptive appropriateness of a single-store unit has not been rebutted and that the single-store unit here sought is appropriate.

Accordingly, the case is hereby remanded to the Regional Director for the purpose of conducting an election pursuant to his Decision and Direction of Election, except that the eligibility payroll period shall be that immediately preceding the date of issuance of this decision.³

APPENDIX

The Employer is an Illinois corporation with its home office in Chicago, Illinois. The Employer has about 560 stores throughout the United States, 23 stores in its Miami district, 11 of which are located in Miami, Florida, metropolitan area.

The parties agree concerning the jobs to be

addresses which may be used to communicate with them *Excelsior Underwear Inc.*, 156 NLRB 1236, *NLRB 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 12 within 7 days of the date of this Decision on Review. 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.

¹ The names of the Employer and the Petitioner appear as amended at the hearing.

² Members Fanning and Jenkins dissented in *Gray Drug* based on the majority's refusal to grant a unit coextensive with the Miami Standard Metropolitan Statistical Area, which was the petitioner's primary unit request. Individual store units in the Miami Area were alternatively sought and they viewed the appropriateness of such individual store units as not having been rebutted.

³ 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

included and excluded from the bargaining unit, but Petitioner seeks a single store unit (about 32 employees) while Employer contends that the smallest appropriate unit must include all metropolitan Miami stores.

The Chicago office provides systems for merchandising, uniforms, training booklets, and tapes for the entire chain. All personnel records, paychecks, and bills are kept and prepared at the Chicago office. Fringe benefits and seniority run throughout the system, with possible difference in holidays. Labor relations policy and dealing with unions is handled by the Chicago office.

The regular store sales advertisements are for all Miami area stores. The store managers meet with the District Manager on Monday, when the advertising is discussed and sales prices are set. The District Manager sets many of them, depending on the prices of local competitors. The supply of sales merchandise is discussed at these meetings and merchandise is regularly transferred between stores. The transfer is made by the trucks which are delivering merchandise to the stores. Merchandise is ordered from Employer's Jacksonville warehouse or approved suppliers.

The hourly pay rates scale covers all stores in the District. A home office employee annually makes a wage survey of the area, and this employee, the Regional Manager, and District Manager prepare a proposed pay scale. This is submitted to Chicago for approval.

When a new store is opened, the Regional and District Managers set the store hours and manpower budget hours, which control the total hours of work in the store. The store hours are similar throughout the District, but are varied in accord with the shopping hours in the neighborhood.

Most store employees are hired by the store and grill managers. Applicants fill out the standard company form, are interviewed by the store or grill manager, and are hired at the discretion of the supervisor. As the store has specific manpower hours, the store supervisors are limited to this extent. All new employees are finger-printed, and these are checked by a department in the Chicago office. Most new employees are hired at the first step in the pay rate scale, but the store or grill manager may recommend a higher rate to the District Manager. The pay scale provides for increases after 6 months, 1 year, and 2 years of employment. While these raises must be recommended by the store or grill manager, and approved by the District Manager, they appear to be somewhat routine. Pay raises after that period are not routine and are initiated by the store or grill manager, who prepares a form and makes recommendation. This form is reviewed by the District Manager, who must approve any raise.

With regard to discharge of employees, the store and grill managers may recommend such action and with regard to senior employees, the recommendation will be discussed with the District Manager. It appears from the record that the District Manager may decide to transfer an employee rather than discharge him if he decides that the problem may be one of clash of personality, but the employee will probably be removed from that store.

All new employees receive the Employer's introductory booklets. These booklets contain the fringe benefits granted to all employees and Employer's rules and regulations throughout its chain. They also receive training manuals for the various jobs, and these are used in the training of new employees. The Employer has also developed a series of cassette tapes which are also used in training employees. The new employees are expected to read and follow the booklets and use the tapes but are also trained by the store supervisors and experienced employees. The District Manager has a checker working under him and the District Food Manager has a training supervisor. These employees visit stores throughout the District and aid in training new employees; however, they visit each store about once a month for several days, and it therefore appears that most of the training is done by the store employees. The Employer's general rules provide that any employees who take leave of more than 30 days without approval from the District Manager are considered as leaving employment, and if they are again employed, they will be treated as new employees. If an employee seeks a leave of more than 30 days, he may seek authorization which must be first approved by his store or grill manager and then by the District Manager. Any time off for less than 30 days is considered temporary and may be granted by the store supervisors at their discretion.

The store located at 12295 Biscayne Boulevard was opened on July 7, 1971. For several months prior to the opening, the store was stocked and prepared for opening, and many employees, a majority of whom are supervisors, were transferred to the store during this period. When the store opened, it appears that all supervisors and several of the employees were transferred from other stores, but most of the unit employees were newly hired. The Employer has presented an exhibit showing transfer of employees between this store and others in the District, through the payroll period of January 28, 1972. A majority of these transfers involved temporary assignments of head cashiers. The Employer had not decided on who would fill this position, and it therefore alternated a number of head cashiers on a temporary basis until it finally permanently transferred Mrs. Meyers during the payroll period of December 17,

1971. There were no further transfers of head cashiers to and from this store since that date, and it therefore appears that the earlier transfers were merely part of the Employer's original staffing of this store. An analysis of the remaining transfers show that during the 28-week period from the time of opening to the payroll period of January 28, 1971, there were less than 10 employees in the bargaining unit transferred into or out of this store.

While many of the Employer's operations, including payroll, purchasing, and merchandising, are centralized, the Board has noted that these are not significant in determining the appropriate bargaining unit. *The Grand Union Company*, 176 NLRB 230. With regard to the Board's general policy, a single store operation is presumptively appropriate when the day-to-day work is under the local store manager. *Haag Drug Company, Incorporated*, 169 NLRB 877; *The Grand Union Company, supra*; *Hochschild, Kohn & Co., Incorporated*, 184 NLRB No. 76; *Angelus Furniture Manufacturing Co.*, 192 NLRB No. 137.

Upon consideration of the above facts and entire record, I find that the store employees are supervised in their day-to-day operation by the store supervi-

sors, and do not have substantial interchange with employees at the other Miami area stores. It is noted that the District Store Manager and Food Manager visit each store about once a month and do not, therefore, regularly supervise the store employees. The other Miami area stores range from 3 to more than 15 miles from the store sought by Petitioner, and most of these stores are further than 10 miles away. I therefore find that the single store unit sought by Petitioner is appropriate for collective bargaining. There is no bargaining history for any of Employer's Miami stores. While the employer has a history of collective bargaining on a metropolitan basis in several cities, these units were apparently established by mutual agreement and this history does not establish that a metropolitan area is the only appropriate bargaining unit. *The Grand Union Company, supra*.

The store and grill managers and their assistants have the authority to hire and fire employees, or responsibly direct their work. In accord with the stipulation of the parties, I find them to be supervisors within the meaning of the Act.