

Northwest Steel, Inc. and Chauffeurs, Teamsters, Warehousemen and Helpers Local No. 45, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Independent, Petitioner. Case 19-RC-6215

November 7, 1972

**DECISION ON REVIEW AND
DIRECTION OF ELECTION**

**BY CHAIRMAN MILLER AND MEMBERS
FANNING AND JENKINS**

On July 10, 1972, the Acting Regional Director for Region 19 issued a Decision and Order in the above-entitled proceeding in which he found that the requested unit of "truckdrivers, warehousemen, and steelhandlers . . ." comprised but one employee and therefore dismissed the petition. Thereafter, in accordance with Section 102.07 of the National Labor Relations Board Rules and Regulations, the Petitioner filed a request for review of the Acting Regional Director's Decision on the ground that he erred in finding Earl Ennen, the warehouse foreman, to be a supervisor as defined in the Act and, therefore, should have directed an election. By telegraphic order dated August 30, 1972, the request for review was granted.

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 considered the entire record in this case with respect to the issues under review and makes the following findings:

At its Great Falls, Montana, steel facility here involved, the Employer is engaged in the retail and wholesale sale of industrial steel, such as plate, beams, and reinforced bar. The total personnel complement at the facility consists of Morris Rose, the general manager; Bruce Gessner, sales representative; Earl Ennen, warehouse foreman; and David

Weatherbee, warehouseman. The parties agreed that Rose is a supervisor. The Acting Regional Director found that Gessner, essentially an outside salesman, is not part of the requested unit. He also found that Ennen had sufficient supervisory power to require his exclusion, pointing to evidence that he had authority to fire and that he directed Weatherbee in his work. The Petitioner contends that the record does not support a finding that Ennen is a supervisor as defined in the Act. We agree.

Ennen has worked for the Employer for 19 years. He is in charge of the yard where he and Weatherbee unload incoming steel, fill orders as they are received from the office, load the trucks, and make local deliveries. Because of an injury sustained 2 years ago, Ennen attempts to avoid heavy manual labor. Like Weatherbee, he is paid on an hourly basis but his paycheck is not docked when he takes time off for short periods.

Although Ennen stated that he had authority to discharge, he went on in his testimony to say that he doubted he had such authority and in fact had never exercised it, and would not exercise it. He further stated that in actuality he referred all supervisory matters to Rose. His direction of Weatherbee's activities, when both are present, appears to require no independent judgment, as it is based on established procedures for filling orders.

Upon these facts and the entire record in this case, we find, contrary to the Acting Regional Director, that Ennen does not possess or exercise any of the indicia of supervisory authority as defined in the Act, and we include him in the requested unit.¹

Accordingly, we find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All truckdrivers, warehousemen, and steel handlers at the Employer's Great Falls, Montana, steel warehousing facility, excluding office clerical employees, salesmen, guards, and supervisors as defined in the Act.

[Direction of Election and *Excelsior* footnote omitted from publication.]

¹ *Green Brothers Lumber Corp.*, 158 NLRB 1642, 1644; *United States Gypsum Company*, 116 NLRB 1771, 1773.