

American Motors Corporation, Parts Division and International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW), Petitioner. Case 30-RC-1939

October 5, 1973

DECISION AND DIRECTION OF ELECTION

BY MEMBERS FANNING, KENNEDY, AND PENELLO

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Philip E. Bloedorn. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, this case was transferred to the National Labor Relations Board for decision. The Employer and the Petitioner filed briefs.

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 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 National Labor Relations Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The Petitioner is a labor organization claiming to represent employees of the Employer.
3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act.
4. The appropriate unit: There is no history of collective bargaining involving the employees sought. The Petitioner seeks a unit of all office clerical and technical employees employed by the Employer at its Parts Division located in Milwaukee, Wisconsin, excluding all confidential employees, managerial employees, professional employees, guards, and supervisors as defined in the Act, and all other employees.¹ The Employer contends that the technical employees should not be included with the office clerical employees and that it is the Board's policy not to include technical employees with office clerical employees where, as here, one of the parties objects.

The Employer is a division of the American Motors Corporation and is engaged in the operation of a national parts distribution center located in Milwaukee, Wisconsin. The Employer distributes and supplies au-

tomotive parts to various dealers throughout the United States and to customers overseas.

The Employer's facility is located at 3280 South Clement Avenue in Milwaukee. It is situated on 43 acres of land. There are 10 buildings which are all connected. Only one building is a multistory building. Within those buildings there are approximately 700,000 square feet of office space and a million and a half square feet of warehousing space. There is in excess of \$100 million worth of inventory located at the facility. There are approximately 800 employees, half of whom are hourly paid and the other half salaried. Due to the nature of the operation, involving as it does the distribution of automotive parts, a great deal of paperwork is required. The facility includes large data processing, inventory control, and central claims sections. The office space is primarily confined to building 3, which is the only multistory building. Located on the first floor of building 3 are industrial relations and industrial engineering departments. The remaining departments, except for the international division, which is located in building 6, are located on the second floor of building 3.

The parts division is the basic support facility for 4 zones representing the United States and approximately 20 regional warehouses in various cities in the United States. Some Milwaukee departments report directly to Detroit corporate headquarters. These departments include central claims, data processing, and international division.

The Milwaukee facility operates under the direction of Director J. M. Panettiere and is composed of 10 closely coordinated departments which perform the service operation. There are seven departments that report directly to Panettiere and other closely integrated departments which report to Detroit corporate headquarters through Panettiere.

The departments in which the employees whose job classifications are in dispute because they have both office clerical and technical employees as well as confidential employees and supervisors include: warehouse administration, data processing, field operations, central claims, central distributions, finance, industrial plant and package engineering, international division, material control, and specifications and quality control.²

The Petitioner contends that the close community of interest existing between the office clerical and technical employees makes it an appropriate unit. The Employer contends that the Board should either establish separate units of technical and clerical employees or, in the alternative, permit the technical employees to vote regarding their wishes to be includ-

¹ The Petitioner's unit request appears as amended at the hearing.

² The parties stipulated, and we find, that all of the employees in the industrial relations department are to be excluded.

ed in a clerical unit and make that vote determinative of the unit.

The Employer is a party to collective-bargaining agreements covering more than 400 warehouse employees with another local of the Petitioner, an agreement with the Teamsters covering 15 over-the-road drivers, and an agreement covering approximately 6 plant guards with the United Plant Guard Workers. There is no contract bar concerning the approximately 200 employees in the unit sought by the Petitioner.

The issues herein concern the appropriateness of a combined office clerical and technical unit, as sought by the Petitioner and opposed by the Employer; the Employer's assertions that certain employees are technical, confidential, managerial, or supervisory; and the eligibility of certain employees who are on leaves of absence due to maternity leave or illness.

As to the scope of the unit, contrary to the Employer's contention, the Board no longer excludes technical employees from units including other employees merely because, as here, one of the parties objects to their inclusion. While separate technical units may be appropriate, the Board in *The Sheffield Corporation*³ ended its practice of automatic exclusion of technical employees from production and maintenance units whenever their unit placement was in issue. The Board stated that it would no longer automatically exclude technicals, but would determine their unit placement on the basis of their community of interest, in each case, by analyzing factors which include desires of the parties, bargaining history, similarity of working conditions, type of industry, organization of plant, whether the technical employees work in separately situated and separately controlled areas, and whether any union seeks to represent technical employees separately. This policy was later extended to cases involving clerical employees and technical employees.⁴ In determining the community of interest of the technicals, the Board also considers such factors as the existence of common supervision, contact or interchange with other employees in the unit, specialized schooling, and on-the-job training.⁵

As Board policy permits the inclusion of technical employees in other units where they share a community of interest with such employees, we make the following findings:

Stipulations: The parties entered into numerous stipulations concerning the status of certain employees as office clerical employees,⁶ technical employees,⁷

confidential employees, managerial employees, professional employees, and supervisors.

The Employer contends that, with few exceptions, most of those employees stipulated by the parties as being clerical are in salary grade 6 or less, whereas other employees, whether there is agreement or dispute as to their technical status, are in grade 6 or above. Additionally, the Employer contends that the securing of experience and the faith of the Employer in allowing an individual to make important decisions are factors which elevate technical employees in their own eyes, as well as the eyes of their coworkers, above those jobs which are mere routine and require very little in the way of individual judgment. The Employer's salary grading system indicates that it considers those employees who are claimed to be technical to be in more responsible positions within the Employer's hierarchy.

The parties are in disagreement over certain job classifications which the Employer claims are technical and the Petitioner claims are office clerical. The classifications are as follows:

Claims analyst A: Although both parties stipulated that most claims analysts A are office clericals, the Employer contends that one employee, Memmel, who works in the central claims department, is misclassified, since the work he performs is not that of a claims analyst A but of a special analyst. Memmel assertedly checks the work of claims analysts senior when required.

Traffic claims analyst: The employee in this classification assembles supporting documents for loss, damage, and overcharge claims. He checks and processes damage claims against common carriers, deals directly with carrier traffic officials and representatives concerned with freight rate activities, and arranges for the handling and clearance of imports and shipments.

Inventory control analyst A: This classification is located in the materials department. The record shows that the employees in this classification issue purchase orders. They work on the second floor with clerks and typists; they receive no special training or schooling. Some have a high school education and some have attended college. They are not required to use special equipment or tools.

Order analyst A; order analyst B; and order inquiry analyst: The Employer contends that these classifications are basically the same except for complexity of tasks. The individuals in these classifications are located in the material control department. An order

³ 134 NLRB 1101.

⁴ *The Budd Company, Automotive Division, Gary Plant*, 136 NLRB 1153.

⁵ *Mosler Safe Company*, 188 NLRB 650.

⁶ The parties stipulated, and we find, that the employee classifications listed in Appendix A are office clericals.

⁷ The parties also stipulated, and we find, that the following job classifications are technical employees. *Illustrator A*, *quality control analyst A*, *quality control analyst B*. In view of their community of interest as displayed by their similar working conditions and common supervision, and the fact that no union seeks to represent them separately, we shall include them in the unit.

analyst A is an employee who has had a period of 1-1/2 to 2 years of experience and has been reclassified after working at the hiring level position of order analyst B. Order analysts handle dealer complaints, change orders, insure that dealers get proper orders, and check with engineering. The order inquiry analysts and order analysts A handle the emergency orders and contact parts analysts, zone warehouses, and warehouse personnel. The order analyst A has the same duties as an order inquiry analyst.

Commercial accounts coordinator: The employees in this classification are located in the material control department and are responsible for ordering, receiving, processing, and resolving all commercial accounts. These individuals operate more in the area of incoming orders rather than purchasing parts. These employees create orders through a keypunch input into the data center.

Expediter A: This position is located in the material control department. Promotion to this position is achieved through experience gained as an expediter B. The employees in this classification are responsible for determining shipping promises, securing commitments, resolving prices, and generally handling critical problems.

Parts analyst A; chasis parts analyst senior; and illustration coordinator: These classifications are located in the specifications and quality control and graphics departments. The basic function of these classifications is that of parts analyst who releases replacement parts into the parts distribution network. These employees prepare catalogue copy for the publications department, develop common parts within their individual responsibility areas, and develop installation kits. Their responsibility is to release the paperwork which provides for replacement parts to be available and shipped for distribution to dealers through zone and regional warehouses. They also prepare copy for parts catalogues. They require no special training other than a knowledge of cars.

Catalogue writer and special analyst A; editor A; and catalogue writer A: These classifications are located in the specifications and quality control department. These employees prepare parts catalogues. They require experience in the publication field and some knowledge of automobiles.

Technician and writer A: This classification is located in the specifications and quality control department. The function of the employee in this classification is to disassemble vehicles for publication illustration and to prepare technical booklets covering installation techniques. This position necessitates the use of various types of sophisticated testing equipment and diagnostic techniques. In addition, mechanical ability and semantic proficiency are required. The

record shows this employee works in a building where vehicles are housed; however, he is in constant contact with the catalogue writers. He is also salaried and receives the same fringe benefits and has the same working hours as the office clericals.

Cyclical inventory auditor: This classification is located in the controller department. The job duties of this employee consist of determining whether the accounting books reflect the proper quantity of material in the warehouses by comparing various records against physical counts. This is done on a cyclical basis rather than an annual physical inventory.

Order analyst and material analyst: These classifications are located in the international division and the employees' job functions are comparable to those of order analyst B in the material control department.

Clerk typist A: The Employer contends that employees Moffatt, Layer, Wilson, Honeck, Kucinski, and Mikolajczyk are technical employees. The record shows that the duties of these employees are not substantially different from those of the clerk typists A who were stipulated by the parties to be office clericals. Moreover, they all work in the material control department and have the same immediate supervision.

The record shows that the employees in the aforementioned classifications have daily contact with employees the parties agreed were office clericals. They have the same fringe benefits; all are salaried employees; they have the same supervision; nearly all of these employees work at desks in open areas in close proximity to admitted office clericals; and all asserted technicals have the same working conditions and hours as the office clericals. Moreover, no other union seeks to represent them separately.

Accordingly, in view of the foregoing and on the record as a whole, we find, without passing upon the precise technical status of each of the disputed classifications, that the asserted technical employees share a community of interest with the office clericals sufficient to warrant their inclusion in the unit found appropriate herein.⁸

The Employer has also raised placement issues with respect to certain classifications which it argues should be excluded as supervisory or managerial. These classifications and our rulings with respect to them are as follows:

Cost analyst A: There are two employees in this classification who work in the controller department. These employees work on budget performance, appropriateness of capital spending requests, special financial analysis studies, reconciliation of accounts,

⁸ Cf. *Albuquerque Division of ACF Industries, Inc.*, 145 NLRB 403; *The Budd Company*, *supra*

and other accounting matters. The Employer contends that a great deal of individual judgment is required in the preparation and submission of financial data. These employees submit the compiled budgets to a corporate office for approval and do special studies and financial analysis.

There is no evidence that cost analysts A formulate, determine, or effectuate managerial policies, or that they possess any indicia of supervisory authority. We find, therefore, that they are not managerial or supervisory, and we shall include them in the appropriate unit.

Expediter senior: The two employees working in this job classification are located in the material control department. They assign work to other expeditors and assist the employees with any problems they may have. The record shows they have no authority to hire; they are not responsible for work of the expeditors A or B; they spend 80 percent of their time performing the same tasks as other expeditors and the remainder of their time answering questions and instructing others. As there is no evidence that they possess any indicia of supervisory authority, we find that they are not supervisors within the meaning of the Act, and we shall include them in the unit.

Senior accountant: There is one employee in this classification who works in the controller department. His duties include auditing expense accounts, preparation of various miscellaneous reports including income tax, balances, the making of journal entries for division and corporate books, the making of financial studies, and the preparation of various types of financial information at the request of management. In view of the absence of evidence that the senior accountant formulates, determines, or effectuates managerial policies, or that he has any indicia of supervisory authority, we find that he is not a managerial or supervisory employee, and we shall include him in the unit.

Purchasing administrator: The individual in this classification is located in the material control department. He is responsible for ordering all nonproductive materials and shipping supplies, as well as the source selection of packaging. The incumbent is a college graduate. He spends approximately 25 percent of his workday routinely assigning work to two clericals and 75 percent of his time performing the other duties of his classification, he has no access to nor does he work with personnel or labor relations records. The record shows he has no authority to hire, discipline, or promote; he cannot assign overtime, and he never adjusts grievances.

There is no evidence that the purchasing administrator formulates, determines, or effectuates managerial policies, or that he has any indicia of supervisory

authority. We find, therefore, that he is not a supervisor or managerial employee, and we shall include him in the unit.

Inventory control analyst senior: The employee in this classification is located in the material control department. He is responsible for the resolution of many problems presented by purchasing, including the authorization of additional purchases and the commitment of the company to various charges. He may instruct other employees and assist them in their work. Although on occasion he may substitute for a supervisor on vacation, he has never been told that he was a supervisor; he does not have a special parking spot as provided for supervisors; and the other employees were not told that he was a supervisor.

There is no evidence that the inventory control analyst senior formulates, determines, or effectuates managerial policies, or that he possesses any indicia of supervisory authority. We find, therefore, that he is not managerial or supervisory, and we shall include him in the unit.⁹

Claims analyst senior: There are four employees in this classification who work in the central claims department. They are responsible for approving claims against the Employer. Experience rather than special training separates the claims analysts senior from the claims analysts A, who are admitted office clericals. Although the claims analysts senior check the work of the claims analysts A, on occasion a claims analyst senior may have his work checked by a claims analyst A. Claims analysts senior are promoted from claims analysts A, both process about the same amount of claims per day, and they have common supervision. Claims analysts senior make no recommendations as to hire, discipline, transfer, layoff, promotion, or grievances.

As there is no evidence that they possess any indicia of supervisory authority, we find that they are not supervisors, and we shall include them in the unit.¹⁰

Order analyst senior: The individual in this classification works in the material control department. He answers inquiries on emergency orders, arranges for shipment of parts, selects the method of shipment, and performs other functions in connection with getting parts to dealers. He also determines what should be classified as an emergency. Although he resolves parts emergencies, routinely acts for the supervisor in

⁹ The Employer asserts that, if the Board should find that he is not a supervisor, the Employer's position is that he is a technical employee. However, without determining whether he is a technical employee, we shall include him in the unit since he shares a community of interest with the employees in the unit.

¹⁰ Although the Employer contends, in the alternative, that they are technical, in view of our finding above, we shall include them in the unit because of their community of interest, without making a determination as to their technical status.

his absence, directs and trains order analysts, routinely assigns work, instructs and routinely directs three clericals, the record shows that this individual does not have the authority to use independent judgment in relation to hire, transfer, discipline, or recommending such action. He spends only 5 percent of his time instructing researchers.

There is no evidence that he possesses any indicia of supervisory authority. We find, therefore, that he is not supervisory, and we shall include him in the unit.

Disposition analyst senior: The individual in this classification works in the central claims department. He coordinates the section's efforts with data processing to assure that the system is running properly. Although he has sporadically acted as a supervisor since December 1972, the record shows that he works with and has the same supervision as the disposition analyst A, a stipulated office clerical classification.

There is no evidence that the disposition analyst senior formulates, determines, or effectuates managerial policies, or that he possesses any indicia of supervisory authority. We find, therefore, that he is not managerial or supervisory, and we shall include him in the unit.

The parties are in disagreement with respect to the eligibility of certain clerical employees who are on leaves of absence due to illness or maternity leave.

The Employer's policy with respect to maternity leave is that an employee having 6 months of service is eligible for a leave of absence of not more than 1 year in duration and at the end of that 1-year period she is terminated unless she requests reinstatement.

In the case of a disability leave, the 12-month period is extended to the point where the physician releases the employee for work and the Employer accepts him.

During the relevant period, there were seven employees on maternity and sick leave who were in the unit. Although the Employer testified that a majority of employees who take a maternity leave of absence do not return to employment at the expiration of their leave, the Employer admitted that it cannot state with respect to any individual currently on an unexpired maternity leave of absence that there is not a reasonable expectation of that individual's returning to work.

The Board has often held that employees on sick leave may vote in the election absent any evidence that such employees have quit or been discharged.¹¹

Beverly A. Bowe was hired on July 21, 1969. She left on maternity leave on November 17, 1972.

J. Pospichal was hired on March 24, 1969. She went

on maternity leave on April 7 1972. She had requested reinstatement, but no jobs were available. The Employer plans to reinstate her.

J. Ricciardi was hired on October 16, 1970. She went on maternity leave on December 15, 1972.

M. Schroeder was hired on August 27, 1965. She went on maternity leave on August 25, 1972.

Mildred Nalencz was hired on May 8, 1967. She went on maternity leave on January 28, 1972.

Susan Wildes was hired on September 3, 1968. She went on maternity leave on November 30, 1971. She failed to request reinstatement and was terminated.

Ann Brown was hired on September 2, 1969. She went on leave of absence due to illness on October 20, 1972. She is in inactive status until she is released by her personal physician to return to work.

Accordingly, we find that employees Bowe, Pospichal, and Ricciardi were on maternity leave during the relevant period and therefore are eligible to vote. Brown's last day of work was October 20, 1972, and the Employer has continued her on an indefinite leave of absence pursuant to its policy. As Brown is on sick leave, we find that she is eligible to vote.

Since neither Schroeder nor Nalencz had been on maternity leave for more than a year before the hearing herein on January 10, 1973, we shall permit them to vote subject to challenge.

Wildes has not returned to work within the time limit set by the Employer's rules following her absence on approved leave. As Wildes has quit work, we shall not permit her to vote.

On the basis of the foregoing, the parties' stipulations, and the entire record, 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 office clerical, asserted technical, and technical employees employed by the Employer at its Parts Division facilities in Milwaukee, Wisconsin, including general clerk A, general clerk B, accounts payable clerk, accounts payable clerk C, stenographer A, records analyst A, records analyst B, accounting clerk B, accounting clerk C, keypunch operator A, keypunch operator B, inventory control analyst B, input and output control clerk, switchboard operator, order and documentation clerk, clerk typist A, clerk typist B, office service clerk B, inventory control clerk, disposition analyst A, disposition analyst B, calculating machine operator A, secretary-stenographer, transportation clerk trainee, typing specialist, documents clerk, teletype operator A, order clerk senior, documentation clerk senior, billing clerk senior, billing clerk, production scheduler, parts analyst B, art clerk, payroll clerk

¹¹ *Foley Manufacturing Company*, 115 NLRB 1205.

A, claims analyst A, computer operator A, computer operator B, computer operator C, printing technician senior, claims analyst A (including Memmel), traffic claim analyst, inventory control analyst A, order analyst A, order analyst B, order inquiry analyst, commercial accounts coordinator, expeditor A, parts analyst A, chassis parts analyst senior, illustration coordinator, catalogue writer and specialist A, editor A, catalogue writer A, technician and writer A, cyclical inventory auditor, order analyst, material analyst, clerk typist A, cost analyst A, expeditor senior, senior accountant, purchasing administrator, inventory control analyst senior, claims analyst senior, order analyst senior, disposition analyst senior, illustrator A, quality control analyst A, quality control analyst B; but excluding all confidential employees,¹² managerial employees,¹³ professional employees,¹⁴ guards, and supervisors¹⁵ as defined in the Act, and all other employees represented under current collective-bargaining agreements.

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

¹² The parties stipulated, and we agree, that the employees in job classifications listed in Appendix B are confidential employees.

¹³ The parties stipulated, and we find, that the following job classification is managerial: system analyst programmer A. The parties also stipulated that the three employees classified as accounts payable auditor senior are to be excluded because they are management trainees.

¹⁴ The parties stipulated, and we agree, that A. Rabarge, a registered nurse, is a professional employee. Also stipulated by the parties as being professional are the package engineering supervisor, package engineers, industrial engineers A, and industrial engineers.

¹⁵ The parties stipulated, and we agree, that the employees in job classifications listed in Appendix C are supervisors

APPENDIX A

OFFICE CLERICAL EMPLOYEES

General clerk A
 General clerk B
 Accounts payable clerk
 Accounts payable clerk C
 Stenographer A
 Records analyst A
 Records analyst B
 Accounting clerk B
 Accounting clerk C
 Key punch operator A
 Key punch operator B
 Inventory control analyst B
 Input and output control clerk
 Switchboard operator
 Order and documentation clerk

Clerk typist A (except Moffatt, Layer, Wilson, Honnek, Mikolajczyk, and Kucinski)
 Clerk typist B
 Office service clerk B
 Inventory control clerk
 Disposition analyst A
 Disposition analyst B
 Calculating machine operator A
 Secretary-stenographer
 Transportation clerk trainee
 Typing specialist
 Documents clerk
 Teletype operator A
 Order clerk senior
 Documentation clerk senior
 Billing clerk senior
 Billing clerk
 Traffic clerk
 Production scheduler
 Parts analyst B
 Art clerk
 Payroll clerk A
 Claims analyst A (except Zimmerman)
 Computer operator A
 Computer operator B
 Computer operator C
 Printing technician senior

APPENDIX B

CONFIDENTIAL EMPLOYEES

Secretary to manager of central claims department
 Secretary to manager of national transportation
 Secretary to controller
 Secretary to manager of industrial and plant engineering
 Secretary to manager of international division
 Secretary to manager of material control department
 Secretary to manager of specifications, quality control and graphics
 Secretary to manager of central distribution department
 Secretary to manager of data processing department
 Secretary to manager of field operations
 Secretary to plant superintendent
 Secretary to director of industrial relations
 Secretary to director parts division operations
 Personnel clerk

APPENDIX C

SUPERVISORS

Material manager	Body parts analysis supervisor
Materials administration manager	Publication graphics manager
Audit analysis manager	Publication supervisor
Inventory control manager	Art supervisor
Parts dispersion manager	Controller
Materials administration supervisor	General accounting manager
Expediting supervisor	Accounting manager
Dealer inquiry supervisor	Accounting supervisor
A.M.C. parts inventory control supervisor	Accounts payable supervisor
Jeep parts inventory control supervisor	Office services supervisor
Dealer order supervisor	Financial analysis manager
A.M.C. zone replenishment supervisor	Payroll and billing supervisor
Jeep zone replenishment supervisor	Records supervisor
Data processing shift supervisor	Verification supervisor
Procedures auditor	Claims supervisor
Pricing analyst senior	Central claims manager
Industrial relations director	International division manager
Labor relations manager	International parts order supervisor
Employee services supervisor	Parts documentation supervisor
Safety and security supervisor	Central distribution manager
Specifications and quality control department manager	National transportation manager
Quality and reliability manager	Plant superintendent
Quality assurance supervisor	Transportation supervisor
Quality evaluation supervisor	Transportation analyst
Chassis and body parts engineering manager	Industrial and plant engineering manager
Chassis parts analysis supervisor	Field liaison engineering supervisor
	Plant engineering supervisor
	Technician and writer supervisor
	Cyclical auditing supervisor
	Industrial relations manager
	Salary administration supervisor