

Buhrke Industries, Inc. and Tool and Die Makers Lodge No. 113, International Association of Machinists and Aerospace Workers, AFL-CIO, Petitioner. Case 13-AC-27

March 20, 1974

DECISION ON REVIEW AND ORDER

BY CHAIRMAN MILLER AND MEMBERS JENKINS
AND KENNEDY

On May 17, 1973, the Regional Director for Region 13 issued a Decision and Order in the above-entitled proceeding in which he granted the Petitioner's request to amend its certification, in effect, to clarify its existing certified unit of employees at the Employer's Arlington Heights, Illinois, plant, by adding thereto the employees of A-R Tool and Engineering, Inc., hereinafter referred to as A-R.¹ Thereafter, the Employer, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, as amended, filed a timely request for review of the Regional Director's Decision on the grounds that in concluding that A-R's employees are accretions to the Petitioner's existing unit, he made findings of fact which are clearly erroneous and departed from officially reported precedent.

On July 2, 1973, by telegraphic order, the request for review was granted and the case was remanded to the Regional Director for the purpose of conducting a hearing. Pursuant to such order a hearing was held before a Hearing Officer on August 2 and 10 at Chicago, Illinois. Thereafter, the parties filed briefs 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 rulings of the Hearing Officer made at the hearings and finds that no prejudicial error was committed. The rulings are hereby affirmed. The Board has considered the entire record in this case, including undisputed findings of fact made by the Regional Director in his Decision, and the parties' briefs on review, and makes the following findings:

The Employer contends, *inter alia*, that the employees of A-R share a separate and distinct community of interest and do not, therefore, constitute accretions to the Petitioner's existing unit. We agree.

¹ The Regional Director treated the instant AC proceeding as a request for clarification.

² The unit description contained in the Petitioner's most recent contract, executed May 27, 1971, is identical, except that maintenance men are also designated as a specific exclusion from the unit.

³ Building B was built as a "duplex," with two sets of offices, lunchrooms, receiving docks, etc., because the Employer originally had

The Petitioner was certified in April 1969 for a unit of all toolroom employees, including the toolcrib attendant, but excluding production employees, among others, employed by Buhrke Tool and Engineering, Inc., at its Arlington Heights plant.² The excluded production employees, 18-20 in number, were engaged in stamping operations. The Petitioner's toolroom unit, since its certification, has consisted of 35-45 employees. In September 1970, as a result of a corporate reorganization, the Employer was created, and Buhrke Tool & Engineering Company and Buhrke Stamping Company, referred to herein as Tool & Engineering and Stamping, respectively, were formed as divisions of the Employer. Fred W. Buhrke is the president and sole stockholder of the Employer and is the president of each of the two divisions.

At the time of the reorganization Tool & Engineering was engaged in the fabrication of new tools and dies and specialized machinery for a number of customers. About 13 percent of its work involved the making of new dies for Stamping which uses them in stamping out parts for its customers. Tool & Engineering also devoted about 6 percent of its man-hours to the repair and maintenance of Stamping's dies.

In 1972, Buhrke Real Estate Corporation, also controlled by Buhrke, built another plant at Arlington Heights, directly south of the Employer's existing plant, and leased the new plant, referred to herein as Building B, to the Employer. In August 1972, the Employer began and has since completed the relocation of its Stamping and Tool & Engineering divisions to Building B.³ Also, the Employer in August 1972 subleased a small portion of Building B to A-R.

From its inception in 1964, until its relocation to Building B in 1972, A-R had been a small tool and die company. Buhrke became majority shareholder and president of A-R in the latter part of 1964. Immediately prior to its move to Building B, A-R was located at Mundelein, Illinois, 15 miles from Arlington Heights. There, some of its business was derived from manufacturing new dies and some from repairing dies for Stamping and other customers. During the fiscal year ending in mid-1973, nearly all of A-R's business was with Stamping, repairing and sharpening tools and dies for it.⁴ Just prior to its relocation to Building B, A-R had only two or three employees, one of whom transferred. That employee

planned to move only the Stamping division into one-half of the building and to sublease the other half to a third party. However, a party offered to rent the plant then occupied by the Employer, so the Employer accepted the offer and decided to move both divisions to Building B.

⁴ It appears that the great majority of these tools and dies are owned by Stamping's customers.

and four new hires made up A-R's complement at the start of its operations in Building B. At the present time A-R has six employees, all classified as die repairmen. Gust Olson, A-R's foreman, had formerly been a leadman in the Petitioner's unit.

The Employer occupies 35,000 square feet in Building B which is a two-story building. Tool & Engineering is in one-half of the building; Stamping and A-R are in the other half. A-R has 1,610 square feet in a corner of the first floor. The two halves of the building are separated by a wall. An electrically operated overhead door, in the wall, may be opened with a key, on request made to a supervisor. Another wall, with an open passageway, marks off the space occupied by A-R.

Although unit employees may have occasion to enter Stamping's area,⁵ they and A-R's employees do not interchange and rarely have contact with each other in the course of their work. Tool & Engineering supervision has no authority with regard to A-R personnel. Stamping at present has 29 employees under Division Manager Massi and Pressroom Foreman Maguria. Massi's office is in A-R's leased space, adjacent to Olson's office. The stamping inspector's office is also located in A-R's area. Stamping's employees bring stamped parts to him for inspection. Olson consults with Massi and Maguria each day with regard to repair work orders, work priorities, and the scheduling of overtime. A-R employees are frequently in the Stamping area to make necessary adjustments on dies, to test dies being repaired, and to pick up and deliver dies. A-R has its own toolcrib for the everyday duties of its employees.

A-R employees generally enter Building B through the Stamping entrance. Their breaks and lunch periods are the same as Stamping's. They use vending machines and restroom facilities located in the Stamping area.

The Petitioner contends that because of the common ownership and control and the integration

of operations of A-R and the Employer, the close geographic proximity of the two operations, and the fact that much of the die repair work done by A-R was formerly done by employees in its unit, the employees of A-R should be viewed as accretions to its existing unit. However, in our view, other factors are of greater significance herein. Thus, the Employer is comprised of two divisions, Tool & Engineering and Stamping, each engaged in different operations. Further, Stamping's production and maintenance employees have not been included in the Petitioner's unit, and they have remained unrepresented. We note that immediately prior to A-R's move from Mundelein to Building B, its two or three employees were engaged at times in repairing dies for Stamping; and one of them transferred to Building B. And after the relocation, all employees added to A-R's complement have been new hires. Thus, none except the foreman have been transferred from Tool & Engineering. Significantly, the employee complements of A-R and Tool & Engineering each share separate facilities, are under separate supervision, are separated by a wall, do not interchange, and have infrequent work contact. Finally, at the present time, as above shown, A-R's operations are closely integrated with those of Stamping, and the employees of A-R share a far greater community of interest with employees of Stamping than with those of Tool & Engineering. In these circumstances, we find that the employees of A-R do not share such a community of interest with employees in the Petitioner's unit as to require their inclusion as accretions thereto.⁶

Accordingly, we shall deny the Petitioner's request for clarification, and we shall dismiss its petition herein.

ORDER

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

Engineering's man-hours are devoted to repair work.

⁶ See *Industrial Siderurgica, Inc.*, 147 NLRB 975. In reaching this conclusion, we find it unnecessary to decide whether A-R and Tool & Engineering constitute a single employer for unit purposes.

⁵ Such occasions arise when it becomes necessary to test a new die during the fabrication process, to make sample parts with a new die, to consult on dies being used by Stamping, or to pick up dies that must be repaired by unit employees. At present, about 3 percent of Tool &