

Witt-Armstrong Equipment Co. and Teamsters Local Union No. 841, a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America. Case 1-RC-13370

November 6, 1974

DECISION AND ORDER

BY MEMBERS JENKINS, KENNEDY, AND PENELLO

On June 21, 1974, Teamsters Local Union No. 841, a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, hereinafter called the Petitioner, filed a petition for certification of representatives. The Petitioner filed the petition for the purpose of obtaining the right for separate representation of all parts department employees employed at the Employer's three plants in Hopkinton, Mattapoisett, and South Hadley, Massachusetts. These parts department employees have been included since 1953 in a service unit for which Petitioner and the International Association of Machinists and Aerospace Workers, AFL-CIO, Lodge 1898, hereinafter called Intervenor, were jointly certified. Included in that unit, in addition to parts department employees, are mechanics and helpers.

A hearing on the petition was held on July 10, 1974, before Hearing Officer Tamara A. Gilman. Following the hearing, this case was transferred to the National Labor Relations Board in Washington, D.C., pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, Series 8, as amended. No briefs have been filed by any of the parties.

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.

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 and finds:

1. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

2. The Petitioner and Intervenor constitute labor organizations within the meaning of the Act.

3. No question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act for the following reasons:

The Petitioner seeks an election in a unit com-

posed of all parts department employees at three plants where the Employer is engaged in the sale and service of farm machinery. The collective-bargaining history shows that the Petitioner and Intervenor were jointly certified in 1953 to represent a unit of service employees, including all mechanics, helpers, and parts employees.¹ Thereafter, Petitioner and Intervenor engaged in joint bargaining, and signed successive contracts covering the certified unit. Most of the approximately 13 parts department employees are members of the Petitioner; several are members of the Intervenor. The approximately 88 other employees are members of the Intervenor, except for 3 employees who are members of the Petitioner.

Whereas Petitioner contends that a separate unit for the Employer's parts department employees is an appropriate unit, the Employer maintains that the historical unit is the only appropriate unit. The Employer and Intervenor contend, in addition, that the petition should be dismissed because there is presently in effect a valid collective-bargaining agreement which constitutes a bar to an election. Based on our consideration of the record herein, we find merit in the contention that, in the circumstances of this case, the employees sought by the Petitioner would not constitute an appropriate bargaining unit.² We reach this finding for the following reasons.

Pursuant to the joint certification of May 26, 1953, the Unions have executed a number of collective-bargaining agreements. At least since the Employer took over its predecessor's operations in 1967, collective bargaining has been conducted on a joint basis by the Unions and contracts arrived at have established standard working conditions for all employees, irrespective of their union affiliation.³ There is a single grievance procedure covering all employees. Separate lines of seniority for parts department and service department employees have been established. However, the contracts have permitted the Employer to transfer employees, permanently or temporarily, between departments. Both Petitioner and Intervenor are signatories to the contract, which refers to both as the "Union" party to the contract.

Approximately 50 percent of the parts department employees' time is devoted to stocking and filling orders for customers. The remainder of their time is spent supplying part demands for the other service employees. The parts department and service areas

¹ When the certification issued in May 1953, the employer was Perkins Machine Company, Inc. However, in 1967 the present Employer took over Perkins Machinery Company's operations, there is no contention that the Employer is not a successor to Perkins.

² In that we are dismissing the petition on the basis that the unit sought is inappropriate, we find it unnecessary to consider the contract-bar issue.

³ Presumably, this was the bargaining pattern prior to 1967, but the record is silent with respect to this matter.

are immediately adjacent to each other, and parts department employees are often in the service area and service employees are often in the parts department. In rush situations, the service employees secure their own parts and fill out the required inventory orders. At the Employer's two smaller plants in Matapoisett and South Hadley, the workflow is not sufficient to justify full-time parts department employees and, therefore, the parts department employees also work in the service department. At Hopkinton, there is at least one service employee who is presently working in the parts department, and the record indicates that, depending on the workflow, it is a common occurrence for some service and parts department employees to shift back and forth between the two departments. The Employer's payroll is not sepa-

rated along parts department or service department lines.

Upon the entire record, it is clear, and we find, that the parts department employees for whom Petitioner now seeks separate representation do not have an identifiable community of interests which are sufficiently distinct and separate to warrant their establishment as a bargaining unit. We shall therefore dismiss the petition.⁴

ORDER

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

⁴ See *Pharmaseal Laboratories*, 174 NLRB 1139 (1969)