

West Suburban Hospital and International Brotherhood of Firemen and Oilers, Local No. 7, Petitioner. Case 13-RC-13562

June 21, 1976

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Edwin Benn of the National Labor Relations Board. Following the close of the hearing, the Regional Director for Region 13 transferred this case to the Board for decision. Thereafter, the Employer and the Petitioner each filed briefs.

On August 21, 1975, the Board, having determined that this and a number of other cases in the health care industry presented issues of importance in the administration of the National Labor Relations Act, as amended, scheduled oral argument in this and related cases, limited to the issue of the appropriateness and scope of a separate maintenance unit in the health care industry.¹ Oral arguments were heard on September 9, 1975.² Briefs and oral arguments on behalf of the *amicus curiae* were permitted by the Board and have been duly considered.

The Board has reviewed the rulings of the Hearing Officer made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this case, including the briefs and oral argument, the Board finds:

1. The Employer is an Illinois not-for-profit hospital with facilities located in Oak Park, Illinois. During the past calendar year, it had gross revenues in excess of \$250,000 and purchased and received goods valued in excess of \$50,000 directly from sources located outside the State of Illinois. We find that the Employer is engaged in commerce within the meaning of the Act and that it will effectuate the policies of the Act to assert jurisdiction herein.

2. We find that the Petitioner, which claims to represent certain employees of the Employer, is a labor organization as defined in the Act.

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 Petitioner seeks to represent a unit consisting of the Employer's maintenance mechanics. The

Petitioner asserts that this unit is a traditional firemen craft unit (referred to as maintenance mechanics by the Employer) engaged in traditional firemen's work—i.e., observation and continual maintenance of the boilerroom equipment—and that craft units such as the one herein have traditionally been represented by the Petitioner. As an alternative to the unit of maintenance mechanics, Petitioner seeks a unit of the six maintenance mechanics and two handymen. The Petitioner also indicated its willingness to represent a unit consisting of the Employer's entire maintenance department (21 people), including the 6 maintenance mechanics.

The Employer contends that the only appropriate unit consists of all nonprofessional employees, excluding all office clerical employees, professional employees, guards, and supervisors. Prior to the oral argument, the Employer had indicated that an alternative appropriate unit would consist of the entire maintenance department, numbering 21 people and composed of maintenance mechanics, stationary engineers, electricians, carpenters, handymen, a painter, a wall washer, a splint man, and a maintenance secretary. At the oral argument, however, the Employer amended its position and stated that the only appropriate unit would consist of the unit initially mentioned above; i.e., a comprehensive service and maintenance unit.

As stated in *Jewish Hospital of Cincinnati, supra*,³ the Board will, in considering the appropriateness of maintenance units, take into account traditional unit criteria,⁴ as well as the congressional admonition against proliferation of bargaining units in the health care industry. For the reasons set forth below, we find that the application of these criteria to the facts herein establishes the maintenance department as an appropriate unit.

The maintenance mechanics sought by the Petitioner are part of the maintenance department, which is located in the basement of the central core of the hospital. Four of the six maintenance mechanics work in the boilerroom which is located approximately 50 feet from the rest of the maintenance department facilities (maintenance shop, electric shop, carpenter shop, storage area, paint shop, maintenance secretary's office, and superintendent's office). The other two maintenance mechanics do maintenance work throughout the hospital but use the maintenance shop as a base. One of these latter two maintenance mechanics also works one shift per week in the boilerroom.

¹ *The Jewish Hospital Association of Cincinnati d/b/a Jewish Hospital of Cincinnati*, 223 NLRB 614 (1976). *St. Joseph Hospital*, 224 NLRB 270 (1976). *Riverside Methodist Hospital*, 223 NLRB 1084 (1976)

² Member Walther did not participate in the oral argument, but he has considered the record and the briefs of the parties

³ Member Fanning dissenting on other grounds.

⁴ Factors to be considered include mutuality of interest in wages, benefits, and working conditions, commonality of skills and supervision; frequency of contact with other employees, interchange and functional integration, and area practice

The primary responsibility of the maintenance mechanics who work in the boilerroom is to maintain and operate the boilers. This encompasses checking the water in the boiler to see that there is enough steam pressure, checking to see that the pumps are running correctly, and checking the electrical power source to see if there are any problems. The maintenance mechanics also perform water tests which involve taking samples from the boiler and from the condensation pump and performing chemical tests on the samples. In addition, at the beginning of each shift an inspection of the equipment is made jointly with the stationary engineer who is on duty, after which they jointly fill out a form report. Finally, the maintenance mechanics in the boilerroom are also responsible for cleaning boilerroom equipment and floors.

The maintenance mechanics who do not work in the boilerroom perform general maintenance work such as plumbing (fixing bathtubs, sinks, and faucets), cleaning fans, repairing wheelchairs, working with the carpenter in helping to construct partitions, working with the chief engineer on refrigeration and welding, operating a snowplow, and performing various odd jobs and general repair work both inside and outside the hospital.

There are five stationary engineers employed in the maintenance department, four of whom take various shifts in the boilerroom, and one of whom takes only one shift per week in the boilerroom and performs maintenance work the remainder of his time. The shift stationary engineer works with the shift maintenance mechanic in making sure that the boilers, pumps, and various other pieces of equipment are operating satisfactorily. The shift stationary engineer is stationed in the boilerroom but makes rounds throughout the hospital to inspect machinery and "air moving equipment rooms" and to perform repair work on such items as heating or plumbing equipment. The shift stationary engineer typically spends 40 percent of his time in the boilerroom, another 40 percent inspecting machinery, and 20 percent doing repair work. The one stationary engineer who does maintenance work 4 days a week is based in the maintenance shop and performs general maintenance work such as steamfitting, plumbing, refrigeration, air-conditioning, calibrating, minor repairs such as adjustments to temperatures, and welding and bracing.

The two electricians in the maintenance department maintain electrical equipment throughout the hospital. One of the electricians makes an inspection trip throughout the entire building, including the boilerroom, each morning. Electrical repairs required

in the boilerroom include work on programmers and pumps.

The painter and the wall washer work throughout the hospital including the boilerroom. The wall washer washes walls both for the purpose of keeping them clean and to prepare them for painting. This may sometimes be done with the help of the handymen. The painter paints in all hospital areas where painting is required.

The two handymen in the maintenance department work with all the other employees in the department. They may work with the maintenance mechanics erecting some type of an installation or may work with the chief engineer, the carpenter, or by themselves, or with the painter helping to erect a scaffold, or with the stationary engineers, electricians, or splint man.

The carpenters work inside and outside the building repairing furniture, helping electricians with the installation of window air-conditioners, and constructing various items. During the summer prior to the hearing, they constructed an air-conditioned room inside the boilerroom.

The splint man erects tractions, often with the help of the maintenance mechanics whenever some cutting, bracing, or welding may be required. The splint man, sometimes assisted by a handyman or an electrician, works in the splint room but goes into the maintenance shop approximately three or four times a day and also works in other areas of the hospital.

The maintenance department also employs a maintenance secretary who handles phone calls to the maintenance shop, writes up repair requisitions, follows through on repairs to make sure they have been done, keeps records of preventive maintenance and of other items, and does all the clerical work in the department.

The maintenance department is under the overall supervision of the superintendent of buildings and grounds. Everyone in the maintenance department is under his direct supervision except the maintenance mechanics and stationary engineers, who report to the chief engineer, and the electricians, who report to the chief electrician. The chief engineer is also in full charge of the maintenance department in the absence of the superintendent.

The maintenance department employees are hourly paid and all have the same fringe benefits, including insurance, pension, vacation, sick plan, and holidays.

Integration of function is prevalent within the maintenance department. In addition to the integration described above, when an emergency situation arises at the hospital all maintenance department em-

ployees work together to make any necessary repair. In performing normal maintenance duties, the maintenance department employees are in frequent contact with one another. This interrelationship occurs during 50 percent of their working time. In addition to contact resulting from work performed together and from the close proximity of the various maintenance department shops, the maintenance department utilizes a common storage area for parts and supplies which is also located near all the maintenance department shops and thus provides further opportunity for intradepartmental contact.

Promotional opportunities within the maintenance department are encouraged by the Employer. For example, maintenance mechanics can, through further education and on-the-job training, become stationary engineers, and this has in fact occurred.

Upon consideration of the above evidence,⁵ we conclude that the maintenance department constitutes a distinct and homogeneous unit whose employees share a community of interest. They work in an area of the hospital where all of the various maintenance shops are located near each other, and yet are isolated from areas where nonmaintenance department employees are located. They are constantly working with each other to accomplish their various assigned tasks. While they also have contact with other hospital employees, their primary contact (about 50 percent of their time) is with other maintenance department employees in the course of the performance of the various maintenance tasks. The maintenance department employees are commonly supervised by the superintendent of buildings and grounds, are hourly paid, share the same fringe benefits, and enjoy promotional opportunities within their department.

Accordingly, upon 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 maintenance department employees including maintenance mechanics, stationary engineers, carpenters, electricians, handymen, painter, wall washer, splint man, and maintenance secretary, but excluding all supervisors as defined in the Act.

[Direction of Election ⁶ omitted from publication.]

MEMBERS PENELLO and WALTHER, dissenting:

We disagree with the conclusion of our colleagues that the maintenance department employees share a community of interest separate and distinct from other nonprofessional employees. For the reasons set forth below, and for those expressed in *Jewish Hospital of Cincinnati*, 223 NLRB 614 (1976), and in our separate concurring opinions in *St. Vincent's Hospital*, 223 NLRB 638 (1976), we would dismiss the petition.

The employees of the maintenance department have extensive contacts with other nonprofessional employees at the hospital. The roving maintenance mechanics, for example, work in all areas of the hospital performing a wide variety of tasks. The stationary engineers spend a total of 60 percent of their shift time outside the boilerroom in other areas of the hospital either inspecting machinery or performing repairs. The electricians, carpenters, handymen, painter, wall washer, and splint man likewise perform work throughout the hospital. While the majority correctly notes that contacts among maintenance department employees occur during 50 percent of their working time, it is also true that part of that 50 percent is, of necessity, also spent in associating with employees of other departments. Indeed, the record discloses that maintenance department employees spend between 75 and 80 percent of their time with employees of other departments. Further, many of the hospital's facilities, such as the lockerrooms and cafeteria, are used by all employees.

The maintenance department employees, as noted by the majority, are hourly paid. The remaining 360 nonprofessional employees at the hospital, however, are also hourly paid. The record indicates that the wage scale in the maintenance department ranges from about \$3.40 per hour for handymen to \$5.50-\$5.75 per hour for stationary engineers. This differs but slightly from the wage scale applicable to service employees. The lowest level maintenance department employee earns only a few cents more per hour than the general nonprofessional employees at the hospital, such as housekeepers, nurses aides, orderlies, ward clerks, food service employees, and laboratory assistants. All of the Employer's employees share the same basic fringe benefits regarding insurance, pension, vacation, sick plan, and holidays. There is also a formalized grievance procedure at the hospital which applies to all employees. Finally, a uniform parking distribution system exists under which space is distributed on the basis of shift longevity regardless of which department an employee may be in.

Transfers between the other departments within the hospital and the maintenance department are

⁵ The evidence concerning area collective-bargaining practice was contradictory and therefore inconclusive

⁶ [Excelsior footnote omitted from publication]

available and have occurred in the past. Notification of job openings at the hospital are now posted in the employee cafeteria. Hence, the lower rated service employees have the opportunity and are encouraged to apply for maintenance positions.

The majority correctly states that the testimony regarding area collective-bargaining practice is inconclusive.⁷ Petitioner indicated that at the five area hospitals with which it currently has contracts, it does not represent any crafts other than firemen or boiler operators (i.e., a traditional powerhouse unit), even though other maintenance employees exist in those hospitals. The Employer's testimony, on the other hand, indicated that the most common pattern in the Chicago area is a single unit of all nonprofessional employees in hospitals, including the maintenance department employees. Accordingly, none of the testimony at the hearing evidenced a significant area practice sufficient to establish the unit our colleagues here find appropriate.

⁷ It is noteworthy, however, that the testimony offered by Petitioner in this regard is directed to the unit of maintenance mechanics which it originally sought—not to the unit which the majority now finds appropriate

Some of the tasks performed by the maintenance department employees are general maintenance endeavors. Others, such as preparation of splints and repairing of patients' beds, are akin to what may be considered actual patient care. Many of these activities of necessity bring the maintenance department employees into direct contact with patients. As noted earlier, most of these same activities also bring them into direct contact with other employees.

In sum, the maintenance department, encompassing both skilled and unskilled personnel who cannot be considered members of a single craft, is in a very real sense fully integrated into the entire operation of the hospital. The great degree of contact among employees, similar salary ranges and fringe benefits, similar working conditions, rules and regulations, interrelationship and interdependence of function, and the opportunity for transfer between the other departments within the hospital and the maintenance department, all dictate that any appropriate unit herein cannot be limited to the maintenance personnel. We therefore would dismiss the petition herein.