

**Anaheim Memorial Hospital Association, d/b/a Anaheim Memorial Hospital and International Union of Operating Engineers, Local No. 501, AFL-CIO, Petitioner. Case 21-RC-14388**

December 9, 1976

**DECISION AND ORDER**

**BY CHAIRMAN MURPHY AND MEMBERS  
JENKINS 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 Joseph M. Connors of the National Labor Relations Board. Following the close of the hearing, the Regional Director for Region 21 transferred this case to the Board for decision. Thereafter, the Employer filed a brief.

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, having duly considered the Hearing Officer's rulings made at the hearing, finds they are free of prejudicial error. They are hereby affirmed.

Upon the entire record in this case, and the brief filed herein, the Board 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 is a labor organization claiming to represent certain employees of the Employer.
3. No question affecting commerce exists concerning the representation of employees within the meaning of Sections 9(c)(1) and 2(6) and (7) of the Act, for the following reason:

The Employer is a nonprofit corporation engaged in the operation of an acute, general care hospital in Anaheim, California. The hospital complex consists of two connected buildings housing the patient-care and related areas, a separate building housing the hospital's administrative offices, gift shop, pharmacy, laboratory, and private doctors' offices, and a fourth structure, designated as the service building, housing the boilers and the offices and major equipment of the maintenance, or engineering, department. There are 240 beds and 12 bassinets. The hospital employs approximately 725 employees, approximately 400 to 450 of whom are service, maintenance, and technical employees.

Petitioner seeks to represent the approximately 19 employees of the engineering department, excluding all other employees. The Employer argues that a separate unit consisting of such employees is inappropriate, a position with which we agree.

The maintenance-engineering department operates under a department head and three "coordinators" whose supervisory status is in dispute but which status we need not determine. Each of the coordinators is in charge of a different aspect of the department's overall function, which is, as described by the department head, the repair and maintenance of mechanical and electrical equipment and of the building and grounds and security.

A landscape coordinator is responsible for three "maintenance groundspersons" who maintain the lawns, trees, shrubs, parking lots, and other outdoor areas and the necessary equipment. Another coordinator is a biomedical equipment technician (BMET), who directs two other BMET's whose chief function is the maintenance and repair of the hospital's electronic medical equipment. The third coordinator is in charge of a general maintenance pool which takes care of all the department's functions not covered by the other two groups and shares with them some security functions. This coordinator has working under him approximately nine "maintenance persons," two maintenance helpers, and two unlicensed engineers. The "maintenance persons" include two employees whose specialty is painting and two carpenters, all of whom are sometimes called on to perform other work. Among the other maintenance persons, some have acquired skills which make them "favored" for assignments on electrical work, some on air-conditioning, but all serve as rotating general maintenance men on evening and night shifts. The unlicensed engineers have different specialties, too, one working principally on plumbing and boilers, and the other on air-conditioning, refrigeration, and electrical work. Finally, there is a maintenance clerk.

Minor maintenance work is requested by other departments through the use of work orders, which are either phoned in to the maintenance clerk or left in pickup boxes throughout the hospital to be picked up by a member of the maintenance pool designated as the "duty man," who makes rounds about every 2 hours. He performs the smaller jobs on the spot, but takes the work orders for the more difficult jobs back to the service building for assignment by the coordinator.

Except for the maintenance clerk and the unlicensed engineer who works on boilers, the employees in the department apparently spend 20 percent or less of their time in the service building, the balance performing maintenance jobs throughout the hospital premises. Some of their work involves moving furniture and equipment in conjunction with employees of the housekeeping department and the departments in which the maintenance jobs are located. Although they are supervised principally within the mainte-

nance department, there is some evidence of limited direction by, and in some cases temporary assignment to, supervisors outside the department.

The maintenance department employees have lockers in the service building and apparently report there at the beginning of the workday, at least on the first shift when the coordinators are on duty. But they are required to punch in and out on the same timeclocks used by all other employees, located in one of the main patient-care buildings. Their first shift corresponds to the regular shift for most of the service and technical employees of the hospital. Since the maintenance function must be manned 24 hours a day, however, members of the maintenance pool (though usually not the other employees in the department) regularly rotate to the evening and night shifts, one employee at a time.

The hospital's wage rate system, into which the maintenance department is integrated, has 33 grades. The BMET's and the unlicensed engineers are in grade 18, along with X-ray technicians and medical photographer. The maintenance persons and maintenance helpers occupy grade 13, which grade currently contains no employees outside of the maintenance department.<sup>1</sup> The maintenance groundspersons share grade 7 with PBX operator, medical records clerk, and unit secretary. The maintenance clerk occupies grade 6, as do assistant EKG technician and duplicating machine operator.

The employees in question receive the same fringe benefits as other employees, use the same cafeteria and parking lot, and their personnel matters are administered centrally. With respect to hiring, firing, promotions, and transfers, there is a sharing of responsibility among the department head, the personnel department, and the assistant administrator of the hospital, although the department head appears to have the operative authority with regard to hiring, firing, and transfers. Several employees have gone into the maintenance department by the transfer route, pursuant to an overall hospital policy of giving preference to current employees for interdepartmental transfers.

All the department employees except the clerk are issued uniforms, one type for the maintenance persons, helpers, and unlicensed engineers, a slightly different type for the BMET's, and a color variation for the groundspersons. The BMET's rarely if ever wear their uniforms, and the groundspersons often wear cutoff jeans and tee shirts or no shirts in hot weather. The hospital provides wearing apparel to

service and technical employees in other departments. There is evidence that some of the maintenance department employees, apparently the members of the general maintenance crew, were told that it was preferred or they were required to have their own pouches of basic handtools.

None of the jobs in the maintenance department require a certification, license, or formal apprenticeship. Although the formal job descriptions of both the unlicensed engineers and the maintenance persons mention journeyman status in a trade as a prerequisite, the testimony is to the effect that this was interpreted to mean merely sufficient skill to perform the jobs required of them. In fact, the unlicensed engineers and the painting and carpentry maintenance persons are experienced and skilled in their specialties. The unlicensed engineer, who specializes in electrical work, air-conditioning, and refrigeration, has completed a basic course in these trades, but such formal training is not required. On the other hand, a document issued by the department head indicates certain course requirements for promotion from maintenance person to unlicensed engineer.

The nonspecialist maintenance persons are considered to be skilled in general maintenance, and the maintenance helpers, who are in the same pay grade, are considered semiskilled. Within each grade, however, there are wage steps earned through experience, and the helpers apparently become maintenance persons as they advance their skills through on-the-job training.

The BMET's are both skilled and heavily schooled in electronics and occupy, with the unlicensed engineers, the highest grade in the department. Neither the groundsperson nor the clerk position has any particular skill or educational status requirement, although the formal job descriptions mention some generalized knowledge and ability, and some high school work or experience equivalence.

A number of collective-bargaining agreements introduced into evidence failed to establish any consistent area pattern of bargaining with respect to maintenance department units. The number of contracts in which the recognized bargaining unit included both service and maintenance employees predominated, but there were also a number of instances where the unit was limited to engineering or maintenance employees or where such employees were excluded from a larger unit. There were few if any agreements,<sup>2</sup> however, where a maintenance depart-

technician, dietitian, RN II, physical therapist (experienced), clinician, coordinating RN, medical technologist, and pharmacist.

<sup>2</sup> Not all the agreements are self-explanatory as to the functions performed by the employees in the unit, and no testimony was adduced which filled in the gaps

<sup>1</sup> In between grades 13 and 18 are various technicians, executive secretaries, and instructor, accountant, and social worker classifications. Above grade 18, only 6 of the possible 15 grades are currently occupied by job classifications. These include, in ascending order, cytologist, staff RN, nuclear medicine technician, ultrasound technician, special procedure

ment of the scope under consideration here was recognized as a separate unit.

We are not persuaded that the employees in this maintenance department have a strong enough separate community of interest to warrant finding, in the face of the general congressional admonitions against proliferation of units, that they constitute a separate appropriate unit.<sup>3</sup> These employees are diverse in their types as well as their levels of skills. Their rates of pay encompass a broad spectrum within the overall wage system of the hospital. Their contact with other employees is probably at least as significant as those of most hospital employees with other employees outside their immediate departments. These factors, considered in light of the record as a whole, are not counterbalanced by any factors of sufficient weight to justify granting to these employees the privilege, denied to skilled employees in other departments, of separate bargaining status.<sup>4</sup> As the Petitioner has indicated that it does not wish to participate in an election in a different or larger unit, we shall dismiss the petition herein.

#### ORDER

It is hereby ordered that the petition in Case 21-RC-14388 be, and it hereby is, dismissed.

CHAIRMAN MURPHY, dissenting:

I disagree with my colleagues' finding that the unit requested by the Petitioner is inappropriate. In my view, the record amply establishes that the Employer's maintenance-engineering department employees possess a sufficiently strong separate community of interest to warrant a finding that they constitute an appropriate unit for purposes of collective bargaining within the meaning of Section 9(b) of the Act.

The unit sought by the Petitioner includes all employees in all job classifications in the Employer's maintenance department. This department currently consists of two biomedical equipment technicians (BMET), two unlicensed engineers, nine hospital maintenance persons, two maintenance helpers, three maintenance groundspersons, and one maintenance clerk. The maintenance department is generally responsible for the Employer's heating, cooling, grounds, and electrical systems and for the performance of minor maintenance and preventive maintenance throughout the entire hospital. It operates under the overall direction of a department head who has the authority to hire, fire, and discipline the department's employees. Reporting to the depart-

ment head are three "coordinators," each in charge of a different aspect of the department's overall functions. Thus, there is a BMET coordinator who oversees the maintenance and repair of the Employer's electronic medical equipment; a landscape coordinator who oversees the maintenance of the outdoor grounds, including lawns, trees, shrubs, and parking lots; and a general maintenance coordinator who is responsible for the general maintenance pool which takes care of the heating, cooling, and electrical systems and provides other repair and maintenance functions not provided by the other two groups.

The maintenance department is located in a separate building, designated as the service building, which is not used by any other employees. This building houses the boilers and other major maintenance equipment, the lockers for the maintenance department employees, and the offices of the maintenance supervisors. Although the maintenance department employees punch a common clock at one of the Employer's other facilities, they report to the service building to obtain their work assignments and their tools and to change their clothes. In this regard, the maintenance department employees are issued uniforms which are distinctly different from the uniforms issued to other hospital personnel.<sup>5</sup>

Although the Employer encourages permanent transfers into the department, there is no evidence of transfers out of the unit, nor of interchange between employees in that department and employees in any other department. There also is no significant evidence that supervisors outside the department direct the work of the maintenance department employees.

In my judgment, the foregoing factors establish that the maintenance department employees enjoy a sufficiently separate community of interest to warrant their recognition as a separate bargaining unit. The fact that there are also similarities between these employees and other service employees of the Employer does not justify a finding that the maintenance department here is an inappropriate unit. Indeed, in finding the unit inappropriate the majority relies primarily on "the general congressional admonitions against proliferation of units" in the health care industry. I have previously expressed my disagreement with the premise that the legislative history of the health care amendments precludes us from finding a maintenance department unit appropriate where the facts show that the employees in such department enjoy a separate community of interest.<sup>6</sup> I adhere to that position and would find, therefore,

<sup>3</sup> See *The Jewish Hospital Association of Cincinnati d/b/a Jewish Hospital of Cincinnati*, 223 NLRB 614, 616 (1976)

<sup>4</sup> *Id.* at 617

<sup>5</sup> The fact that some of the maintenance workers, such as the groundspersons and BMET's, frequently do not wear their uniforms itself distinguishes them from other hospital service employees who regularly wear uniforms.

<sup>6</sup> *Shriners Hospitals for Crippled Children*, 217 NLRB 806 (1975) And see *Riverside Methodist Hospital*, 223 NLRB 1084 (1976), and *Jewish Hospital Association of Cincinnati d/b/a Jewish Hospital of Cincinnati*, 223 NLRB 614 (1976)

that the maintenance-engineering department unit requested by the Petitioner constitutes an appropriate unit for purposes of collective bargaining within the meaning of Section 9(b) of the Act.