

**Associated Grocers and International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Local No. 310, Petitioner. Case 28-RC-3174**

January 7, 1977

**DECISION ON REVIEW**

BY CHAIRMAN MURPHY AND MEMBERS  
FANNING AND JENKINS

On July 30, 1976, the Regional Director for Region 28 issued a Decision and Direction of Election in the above-entitled proceeding. The Petitioner had sought a unit of drivers and warehousemen working for the Employer's Baird's Bakery Division at its 1748 South Fourth Avenue, Tucson, Arizona, depot. In accord with the apparent position of the Intervenor<sup>1</sup> and Employer, the Regional Director broadened the requested unit to include "all drivers and warehousemen of the Employer employed in the State of Arizona in its Baird's Bakery Division." Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, Series 8, as amended, the Petitioner filed a timely request for review of the Regional Director's decision on the grounds, *inter alia*, that in failing to find the petitioned-for unit appropriate the Regional Director made findings of fact which are clearly erroneous.

The National Labor Relations Board, by telegraphic order dated September 8, 1976, granted the request for review and stayed the election pending decision 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 entire record in this case with respect to the issue under review and makes the following findings:

The Employer is an Arizona cooperative engaged in the wholesale warehousing and distribution of grocery items at various locations in the State of Arizona. On April 17, 1976, the Employer acquired Baird's Bread Company, an enterprise which included a Phoenix bakery and distributing stations located in Tucson, Flagstaff, Safford, Benson, Prescott, and Douglas, Arizona. Baird's goods were also distributed in Nogales, Arizona, through an independent contractor.

Baird's Bread was wholly integrated into the Employer's business as its Baird's Bakery Division without significant operational changes. All payroll, personnel, and financial records for the Baird's

division are centrally maintained in Phoenix. Employee seniority continues to be determined on a divisionwide basis. Driver-salesmen previously employed on a commission basis by Baird's Bread applied and were hired as hourly salaried employees of the Employer. There is no history of bargaining for Baird's drivers and warehousemen.

The managerial hierarchy of Baird's likewise remained intact after its takeover by the Employer. The two senior officials of Baird's, General Manager Clark Rorbach and his general sales manager, Donald Collins, are located in Phoenix. The Phoenix operation's sales manager reports directly to Collins and directs the work of 4 supervisors and approximately 35 drivers. The Tucson depot sales manager also reports directly to Collins and is vested with authority over 1 supervisor, approximately 10 drivers in Tucson, plus 1 driver in each of the cities of Safford, Benson, and Douglas. A supervisor in Flagstaff reports to Collins and directs three drivers in Flagstaff and one in Prescott.

The Regional Director's conclusion that a divisionwide unit of drivers and warehousemen is appropriate was predicated upon his findings that: (1) Baird's bookkeeping functions are centralized in Phoenix; (2) General Sales Manager Collins exercises day-to-day control in Phoenix over drivers at all locations; and (3) divisional employees share a community of interests represented by uniform working conditions, wages, and seniority. On the other hand, the Petitioner contends that factors of local functional autonomy, absence of significant intradivision employee transfers, and geographic separation between Baird's Phoenix plant and its Tucson depot make appropriate the petitioned-for unit limited to Tucson drivers and warehousemen. We are in basic agreement with the Petitioner's position.

Contrary to the Regional Director, and notwithstanding Baird's centralized recordkeeping and Collins' overall responsibility for the entire complement of drivers, we find from the record that Tucson Sales Manager Wells and his supervisor are substantially autonomous in their management of the daily activities of drivers and warehousemen subject to their control. In this regard, Collins himself testified that he merely telephones Tucson daily and tries to visit the Tucson depot "about every 30 days at least." In contrast, Collins is personally present each day in Phoenix and holds regular weekly meetings with the sales manager and supervisors there. It is also uncontroverted that decisions to hire, discharge, and discipline are effectively made locally in Tucson. According to Collins, only applicants to divisional positions in Phoenix are currently screened at the

<sup>1</sup> Transport and Delivery Drivers, Warehousemen & Helpers, Local No. 104, an affiliate of the International Brotherhood of Teamsters, Chauffeurs,

Warehousemen & Helpers of America, will hereinafter be referred to as the Intervenor.

Employer's central office in that city. Collins holds a perfunctory interview with an applicant for employment in Baird's Tucson facility after the decision to hire has essentially been made at the Tucson site. While he reserves the right to reject such an applicant, he has never done so. Furthermore, the Tucson sales manager and supervisor are entrusted with the responsibility for training the newly hired employees.

In addition to the high degree of autonomy vested in local Tucson management, we find that the geographic distance separating Phoenix and Tucson is approximately 120 miles, and there has been an absence of significant employee interchange between those locations, and only one or two transfer requests were made by employees each year within the entire Baird's Bakery Division.

Based upon the foregoing findings, particularly with respect to local autonomy, geographic separation, and absence of employee interchange, we conclude that the drivers and warehousemen subject to Tucson supervision<sup>2</sup> share such a substantial community of interest separate and distinct from the interests they may have as part of a broader division-

<sup>2</sup> Based upon common supervision, we include the single drivers in Safford, Benson, and Douglas, Arizona, within the Tucson unit. We note that not only are they more geographically remote from Phoenix than from

wide grouping of employees as to warrant the establishment of a separate unit for those employees. Therefore, we find that under the circumstances of this case the appropriate unit under Section 9(b) of the Act is:

All drivers and warehousemen of the Employer employed in its Baird's Bakery Division who are subject to common supervision from its 1748 South Fourth Avenue, Tucson, Arizona, depot; excluding maintenance mechanics, truck mechanics, office clerical employees, professional employees, all other employees, guards, and supervisors as defined in the Act.

Accordingly, we shall remand the case to the Regional Director for the purpose of conducting an election pursuant to his Decision and Direction of Election, as modified herein, except that the eligibility payroll period for the election shall be that ending immediately before the date of issuance of this Decision on Review. [*Excelsior* footnote omitted from publication.]

Tucson, but their location east and south of Tucson would tend to associate them with Tucson from a product distribution standpoint.