

Worthington Chevrolet, Inc. and Teamsters Professional, Public, Medical, Automotive & Miscellaneous Employees, Local Union No. 165, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Case 20-RC-15578

24 July 1984

DECISION AND DIRECTION OF ELECTION

BY CHAIRMAN DOTSON AND MEMBERS ZIMMERMAN AND HUNTER

Upon a petition filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Hearing Officer Philip Mounger. Following the hearing and pursuant to Section 102.67 of the National Labor Relations Board Rules and Regulations and Statements of Procedure, and by direction of the Regional Director for Region 20, this case was transferred to the Board for decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

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. A brief was filed by the Employer.

Upon the entire record in this case, the Board finds:

1. The Employer is engaged in commerce within the meaning of the Act.
2. The labor organization involved claims to represent certain employees of the Employer.
3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
4. The Employer is engaged in the retail sale and service of automobiles at its facility in Sacramento, California. The Employer's operation includes three separate departments in service, sales, and business, which are separately supervised. There is also separate supervision for each subdepartment. The service department is comprised of four subdepartments of mechanical, parts, and reconditioning and body shop. The mechanical subdepartment performs engine work on cars and includes 2 service writers, 1 dispatcher, 13 mechanics, 1 cashier, 1 warranty clerk, and 1 lot person. The parts subdepartment sells parts to the public and provides them for the Employer's own use. It includes four parts countermen, one shipping and receiving clerk, and one parts driver. The reconditioning subdepartment prepares new and used cars for sale and does buffing detail work and car washing. It

includes three detailers and one car washer. The body shop subdepartment performs body repairs on cars and includes one assistant body shop manager, four bodymen, one painter, one used-car bodyman, and one used-car painter. The sales department includes six lot persons and various salespersons and managers. The service manager is in overall charge of the mechanical department, the parts department, the reconditioning department and body shop department, and the sales department. The supervisors of each of these departments report directly to the service manager who reports to the general manager.

The Petitioner seeks a unit of unskilled employees including the lot persons in the sales department, the lot person in the mechanical subdepartment, the detailers and car washers in the reconditioning subdepartment, and the porters and car runners. The Petitioner contends that a unit of unskilled employees is appropriate since these employees, although separately supervised, have in common that their functions are unskilled. The employees move and wash cars, they have a common line of promotion to the reconditioning subdepartment, and industry practice in the Sacramento area makes such a unit appropriate. The Employer contends that only a unit of all service department employees and lot persons employed in the sales department is appropriate.

The record shows that prior to 1966 the Teamsters and the Machinists¹ had acted as joint representative in a multiemployer unit which included all employees employed in the service departments of the automobile dealerships in the unit. Although the unit was created prior to 1949 and included most of the union dealerships in the area, this Employer was never a part of the multiemployer unit. Pursuant to an agreement in 1966 between the employers and unions in the multiemployer unit, the unit was divided and each union negotiated a separate agreement.

The Teamsters represented automotive maintenance specialists² who perform routine maintenance such as lubrication and changing oil; combination persons who wash, polish, and perform detail work;³ miscellaneous help who pick up, deliver, unload, and park cars, and perform grounds maintenance work; and recreational vehicle employees who operate tow trucks in addition to driving work covered by the other contract classi-

¹ A representative of Machinists and Aerospace Workers District 190 appeared at the hearing but did not intervene.

² The Petitioner does not seek to represent maintenance specialists here since that work is performed by the Employer's mechanics.

³ These employees make necessary adjustments and repairs to cars during the warranty period.

fications.⁴ The Machinists included in their contract the remaining job classifications. There was an exception inasmuch as the Teamsters represented the parts department employees at 3 of the approximately 25 car dealerships ostensibly because of past practice at those dealerships. The Teamsters and the Machinists became parties to an agreement dividing up job classifications between them in early 1970. The multiemployer unit disbanded and individual contracts were negotiated in 1981.

The Employer's premises consist of two buildings including service stalls. Employees in the mechanical, parts, and reconditioning and body shop departments work the same hours and days of the week in the same general area and punch the same timeclock. The six lot persons in the sales department work in the showroom and on the used-car lot most of the time.⁵

All employees of the Employer receive the same vacations, holidays, group insurance, and other benefits. Employees in the sales department including the six lot persons whom the Petitioner seeks to include in the unit work different days and hours because the sales department is open different hours from the service and parts departments.

There are approximately 11 employees in the unit claimed to be appropriate by the Petitioner and approximately 43 employees in the unit claimed to be appropriate by the Employer.

The record shows that there has been some industry practice in which the Teamsters has been a party to a multiemployer unit which covered some of the employees sought by the Petitioner. This Employer commenced its operations in May 1982 and was never a part of such multiemployer bargaining. There is no bargaining history as to this Employer.

⁴ This Employer apparently employs no recreational or tow truck employees.

⁵ Both the Petitioner and the Employer agree that the six lot persons in the sales department should be included in any unit found appropriate.

Where as here all employees in the service and parts department of an automobile sales and service establishment perform functions related to the service and repair of automobiles, the Board has long held that a unit of all employees in the service department is appropriate.⁶

The record shows that there is no clear line of demarcation between the classifications the Petitioner seeks to include in the unit and those it would exclude and that their work tasks overlap.

Based on our review of the record and in accordance with the agreement of the parties that the six lot persons in the sales department should be included in any unit found appropriate, we find that the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All employees in the service department including lot persons in the sales department of the Employer's automobile sales and service agency in Sacramento, California, excluding all other employees, guards and supervisors as defined in the Act.⁷

[Direction of Election omitted from publication.]

⁶ *W. R. Shadoff*, 154 NLRB 992 (1965); *Austin Ford, Inc.*, 136 NLRB 1398 (1962).

⁷ The parties stipulated and we find that Cal Schlict, general manager; Roy Banaster, service manager; George Burrows, general sales manager; Lenn Mortinson, shop foreman; Mike Anderson, parts manager; Randy Yount reconditioning manager; Don Wilbourne, body shop manager; Tom Cate, new-car manager; and Bob Sofie, used-car manager are supervisors as defined in Sec. 2(11) of the Act.

The Teamsters stated at the hearing that it was willing to participate in an election in a unit broader than that which it sought. As the unit found appropriate herein is larger than that sought by the Petitioner, the Regional Director is instructed not to proceed with the election until he shall have determined that the Petitioner has made an adequate showing of interest among the employees in the appropriate unit who are eligible to vote in the election. In the event the Petitioner does not wish to proceed to an election for such a unit, we shall permit it to withdraw its petition upon notice to the Regional Director within 10 days from the date of issuance of this Decision and shall thereupon vacate the Direction of Election.