

J&L Plate, Inc., a wholly owned subsidiary of Beloit Corp. and United Steelworkers of America, AFL-CIO-CLC. Case 30-RC-5377

February 11, 1993

DECISION ON REVIEW AND ORDER

BY MEMBERS DEVANEY, OVIATT, AND
RAUDABAUGH

On August 4, 1992, the Regional Director for Region 30 issued a Decision and Direction of Election in which he found that the petitioned-for unit of all production and maintenance employees at the Employer's facility located at 809 Phillip Drive, Waukesha, Wisconsin (the J&L facility), was not a separate appropriate unit, and that the only appropriate unit also had to include production and maintenance employees at the Employer's 933 Progress Avenue, Waukesha, Wisconsin facility (the Gartland facility). Thereafter, in accordance with Section 102.67 of the Board's Rules and Regulations, the Petitioner filed a timely request for review of the Regional Director's decision. By Order dated September 14, 1992, the Board granted the Petitioner's request for review.

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

Having carefully reviewed the entire record, the Board has decided, contrary to the Regional Director, that the petitioned-for unit, limited to employees at the J&L facility, is *an* appropriate unit for bargaining.

A single plant or store unit location is presumptively appropriate unless it has been so effectively merged into a more comprehensive unit, or is so functionally integrated, that it has lost its separate identity. *Dixie Belle Mills*, 139 NLRB 629, 631 (1962). To determine whether the presumption has been rebutted, the Board looks at such factors such as central control over daily operations and labor relations, including the extent of local autonomy; similarity of skills, functions, and working conditions; degree of employee interchange; distance between locations; and bargaining history, if any. *Esco Corp.*, 298 NLRB 837, 839 (1990), and cases cited.

In finding that the single facility presumption had been rebutted, the Regional Director cited the relatively short distance between the J&L and Gartland facilities; the functional integration of the manufacturing operations at the facilities; the extent of employee interchange between facilities; the Employer's centralized personnel administration; the similar wages and benefits received by employees at both facilities; and the absence of evidence establishing local autonomy over day-to-day supervision and direction of the work force.

Although we agree with the Regional Director that the Employer's personnel policies are centrally determined, that employees' wages and benefits are similar, that manufacturing operations are integrated, and that job classifications and entry level job qualifications are similar at both facilities, we disagree with the Regional Director's finding that these factors are sufficient to overcome the single facility unit presumption.

We note first that the Regional Director erred in relying on the *absence* of evidence supporting one aspect of the presumption, local autonomy concerning the day-to-day supervision and direction of employees. The presumption is in favor of petitioned-for single facility units, and the burden is on the party opposing that unit to present evidence overcoming the presumption. See *Red Lobster*, 300 NLRB 908, 910-911 (1990); *Esco Corp.*, supra. Hence, in the instant case it was the Employer's burden to rebut the presumption by introducing affirmative evidence establishing a lack of autonomy at the individual plant level. This the Employer failed to do, and the Regional Director erred by construing the absence of evidence regarding local autonomy (i.e., that the record was supposedly silent) as being the equivalent of affirmatively presenting evidence to rebut the presumption.

Moreover, contrary to the Regional Director, the record evidence regarding autonomy demonstrates that employees at each plant are in fact separately supervised and hired by local plant management. With regard to supervision, the testimony of Manufacturing Manager Dennis Konkol establishes that the finishing supervisor and leadpersons at the J&L plant supervise bargaining unit employees at that location. At the Gartland plant, bargaining unit employees are supervised by the leadpersons and the mold, melt, pattern, and finish supervisors, all of whom are located at the Gartland facility. There is no indication that any of the aforementioned supervisors supervise employees at both plants. Similarly, the maintenance employees at each plant report to separate supervisors. Although facilities employees at both plants report to a single supervisor located at the J&L plant, there appear to be only two facilities employees in the petitioned-for unit.¹

Although the Regional Director found that the record was silent as to who performs the actual hiring, the testimony of the Employer's Director of Human Resources Frank Prusko indicates that J&L Plant Human Resources Manager Sally Frost hires employees for the J&L plant, with the assistance of either the

¹There is testimony that J&L Operations Superintendent Dave Meixelsperger and Gartland Operations Superintendent Ted Butch each, although serving as second- or third-level supervisors over unit employees at their own plants, also supervise two employees at each other's plant. But it is not clear that Butch and Meixelsperger are those employees' first-line supervisors, or that those employees are included in the bargaining unit.

finishing supervisor or a leadperson. At the Gartland plant, it appears that hiring is performed by a separate Gartland human resources manager, Doug Kincade. Employment applications are interchanged between plants, but there is no evidence that hiring decisions are centralized.

With regard to discharges, discharge decisions are made by local plant management; there is no indication that prior clearance is required. The Employer maintains a procedure whereby aggrieved employees may appeal discharge decisions to a panel of three employees and three management representatives; although apparently some such panels have included individuals from both plants, it was not established that these panels consistently included individuals from both facilities. With regard to wages, there is a centrally established wage system covering all employees hired after January 1, 1982, under which the employee and his or her supervisor agree on the employee's skill level, which determines the appropriate wage rate. If the employee and supervisor are unable to reach agreement, the dispute is mediated by the plant superintendent of the facility involved; if that proves unsuccessful, the employee's skill evaluation is submitted to a team of coworkers, whose decision is final. The above evidence concerning local plant management's authority to discharge employees and set or alter wage rates is inconclusive, due to the involvement of joint employee/management panels, causing the determinations to be largely individual; we find that the evidence is not sufficiently clear to establish a lack of local autonomy or control of these matters.

There have been only 20 temporary transfers of unit employees between the 2 facilities in the past 3 to 4 years. Some of those transfers have lasted for extended periods, but the number of transfers for the period involved is relatively small given the number of employees at the J&L plant, 45-55, and the combined size of the 2 plants, 172-182 employees. There also were 21 permanent transfers of unit employees in the same period, which is both an insubstantial number and of less weight than evidence regarding temporary transfers. *Red Lobster*, supra. Further, there is virtually no evidence of contact between employees of the two plants. And although there is product integration between the two plants, similar job classifications, and common

entry level hiring qualifications, the two plants perform different functions. The Gartland plant is a foundry which primarily manufactures castings; the J&L plant primarily finishes the casting into disk refiner plates, and then ships them to customers.

Based on the foregoing facts, we find that the evidence is insufficient to rebut the presumptive appropriateness of the single facility unit sought by the Petitioner, and that the petitioned-for unit of all production and maintenance employees at the J&L plant is an appropriate unit. As indicated, the Regional Director erred to the extent he found that there was a lack of evidence regarding autonomy, and in failing to hold the Employer to its burden of rebutting the single facility presumption as to local autonomy. The evidence regarding autonomy in fact supports the presumption, as the separate plants control supervision and hiring. The evidence of minimal interchange and the lack of any meaningful contact between employees at the two facilities diminishes the significance of the functional integration and distance between the facilities. Also, for the most part employees at the J&L plant perform distinct functions from those performed at the Gartland facility. In sum, although some factors favor the broader unit urged by the Employer, on balance the evidence presented does not establish that the J&L plant has been "so effectively merged into a more comprehensive unit, or is so functionally integrated that it has lost its separate identity." *Esco*, supra, 298 NLRB at 839, citing *Dixie Belle Mills*, supra.

Accordingly, the Regional Director's decision is reversed, and the case is remanded to the Regional Director with instructions to conduct an immediate election in the petitioned-for unit pursuant to his Direction of Election, except that the payroll eligibility period shall be that period ending immediately before the date of this decision. The Employer shall furnish an *Excelsior* list (*Excelsior Underwear*, 156 NLRB 1236 (1966)) within 7 days from the date of this decision, as otherwise described in the Regional Director's Direction of Election.

ORDER

It is ordered that Case 30-RC-5377 be remanded to Region 30 for action consistent with these findings.