

**Barbara George, Inc. t/a Barbara George Collection and Teamsters' Union Local No. 469, a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Case 22-RC-8945**

14 December 1984

**DECISION ON REVIEW AND  
DIRECTION**

**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 a hearing officer of the National Labor Relations Board. On 3 April 1984, the Acting Regional Director for Region 22 issued a Decision and Direction of Election in which he found appropriate the petitioned-for bargaining unit consisting exclusively of warehouse employees employed by the Employer at its Edison, New Jersey facility. Thereafter, in accordance with Section 102.67 of the National Labor Relations Board Rules and Regulations, a stay of election and a request for review of the Acting Regional Director's Decision and Direction of Election was filed by the Employer, contending that the Acting Regional Director departed from officially reported Board precedent by refusing to find that the employees working in the Employer's warehouse, order processing, and merchandising areas constitute the smallest appropriate unit for representation purposes.

On 1 May 1984, the National Labor Relations Board granted the motion to stay the election as well as the request for review as to the appropriateness of the unit.

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, including the brief of the Employer, and makes the following findings.

The Employer is engaged in the mail order and retail sale of giftware, fashions, and jewelry. The one-story facility is divided into three geographical work areas, designated for purposes of the hearing as areas A, B, and C. Area A contains the order processing and customer service employees, area B the warehouse employees, and area C the merchandising and accounting employees. Approximately 38 employees work at the facility. The Petitioner has requested a unit of 13 warehouse employees at the Employer's Edison facility.

The Employer contends that the smallest appropriate unit would consist of employees working in all three areas. Because of the functional integra-

tion of the Employer's business, the Employer argues that an employee performing a job in one area necessarily assists employees in other areas in the performance of their respective functions.

In determining whether the requisite community of interest is present among the proposed unit of employees, the Board considers whether there is uniform control of labor relations; interchange of jobs; similarity of skills; common conditions of employment; common supervision; operational integration; bargaining history; and geographical proximity.<sup>1</sup> Where at least some of these criteria are met, a unit which encompasses all employees at one location may be found appropriate.

All the employees here work in the same building. Although there is open access between areas A and C, the warehouse area is separated by a wall and a hallway. Access from area B to areas A and C is through a doorway or through the lunchroom. All employees punch the same timeclock and have the same hours of work, share a common bulletin board and lunchroom, and are paid biweekly on an hourly basis. Uniform wage levels are set throughout the Company. All employees enjoy the same holidays, vacation and sick day benefits, pension, insurances, and company discount policy. They are all subject to the same rules of conduct and disciplinary procedures. Moreover, the Employer has stated in its company handbook that it expects each of its employees to be versatile enough "to perform a variety of jobs, from administrative to light physical in nature."

Orders come in by mail or by telephone. A warehouse employee brings all mail orders to area A, the order processing area, where they are stamped with a number and separated according to the method of payment involved. Certain accounting and inventory information is recorded before an order processing employee prepares a picking ticket which the warehouse employees use to pick and ship a customer's order. The warehouse supervisor or his designee picks up the picking tickets and takes them to the warehouse. Employees there retrieve the merchandise. If questions arise about a particular order, the employee in area B would go back to an employee in area A for clarification. After the merchandise is picked, it is taken to warehouse packers who pack and ship the order. An area C employee, Dawn Smith, actually picks special orders from Area B. At the end of the day a warehouse employee takes these picking tickets to the file room in area B.

Area B employees also receive merchandise from suppliers. Diane Lebovitz, merchandise manager

<sup>1</sup> *Sears, Roebuck & Co.*, 191 NLRB 442 (1971).

for area C, regularly gives instructions to area B employees working in merchandise receiving, telling them what to receive and what to reject and when to open packages. The suppliers' merchandise forms are given to the area C supervisor who gives them to Cheryl Bonbar, a clerk, who compares them with back orders and makes a list of which back orders can be filled. The clerk then takes this list to Georgiana Booth, an employee in area A, who decides how many back orders can be released. Booth then gives these back orders to the clerk or Lebovitz who takes them to the warehouse supervisor for picking.

Kevin Kulpa, an area B employee, does work for just about every area in the Company. He picks up some deliveries for the merchandising department, area C. He also works for the order processing department, area A, to deliver purchase orders. He handles inside mail from each one of the divisions within the Company, as well as handling the bank deposits for the accounting department.

Dawn Smith, an area C employee, is shared with area B. She regularly picks orders in the warehouse and handles special orders and defects. Lois Accomando, primarily an area C order processing employee, works in area C in merchandise assembly and as a fashion packer. She also works in merchandising, area A, preparing item lists.

As many as nine order processing employees have gone to area B to work for varying lengths of time. At least one area B employee was sent to area A to perform work on at least 10 different occasions during the past year.

Because of the Employer's policy of training personnel to perform a variety of functions, it has been possible for several employees to transfer permanently from one area to another. For example, three order processing employees have transferred to merchandising, one warehouse employee has transferred to order processing, and one former employee transferred from order processing to the warehouse area.

Based on the foregoing, it is clear that there are many occasions and opportunities for employees working in the various areas to interact with each other face to face and by telephone. Contact among employees in the three areas is occasioned by discrepancies in paperwork, shortages of inventory, back orders, identification and location of items to be shipped, expediting of orders, and corrections of inventory control records. Thus, employees working in the three areas regularly confer with one another as a routine part of their jobs. Additionally, several employees have been borrowed from one department and used in another

department when necessary to achieve a smooth operation. Moreover, some employees have transferred permanently from one area of the center to another. Finally, as indicated, fringe benefits and working conditions are the same for all employees.

When these factors are viewed collectively we find a compelling basis for finding that the warehouse employees do not have a community of interest sufficiently distinct and separate from other employees to warrant their placement in a separate unit. We conclude that the smallest appropriate unit is that consisting of employees working in the warehouse, order processing, and merchandising areas. In reaching this conclusion we rely on the highly integrated nature of the Employer's business, the fact that all employees participate equally and fully in this process, the high degree of interaction among employees, and the lack of distinction among employees as to wages, benefits, terms and conditions of employment, and levels of skills.<sup>2</sup>

Accordingly, we shall remand the case to the Regional Director in order that he may, in the event the Petitioner demonstrates to him within 10 days that it has an adequate showing of interest in the broader unit found appropriate herein, conduct an election in accordance with his Decision and Direction of Election, as modified herein,<sup>3</sup> except that the eligibility date shall be that immediately preceding the date below.

#### DIRECTION

This case is remanded to the Regional Director for Region 22 for the purpose of conducting an election pursuant to his Decision and Direction of Election, as modified herein, subject to the Petitioner's presentation of an adequate showing of interest among the employees in the appropriate unit. The eligibility date shall be the payroll period immediately preceding the date of issuance.<sup>4</sup>

<sup>2</sup> See *American Parts System*, 254 NLRB 901 (1981), *Avon Products*, 250 NLRB 1479 (1980), *Industrial Supplies Co.*, 237 NLRB 189 (1978), *Scholastic Magazines*, 192 NLRB 461 (1971)

<sup>3</sup> As the unit found appropriate is broader than that requested, the Petitioner may withdraw its petition without prejudice upon written notice to the Regional Director within 10 days from the date of this Decision on Review and Direction

<sup>4</sup> To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them *Excelsior Underwear*, 156 NLRB 1236 (1966), *NLRB v Wyman-Gordon Co.*, 394 U.S. 759 (1969) Accordingly, it is directed that an eligibility list containing the names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days from the date of this Decision on Review. The Regional Director shall make the list available to all parties to the election. No extension of time to file this list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election if proper objections are filed