

Dinah's Hotel Corporation d/b/a Dinah's Hotel & Apartments and Professional and Clerical Employees Division of Freight Checkers, Clerical Employees & Helpers Local No. 856 a/w International Brotherhood of Teamsters, AFL-CIO, Petitioner. Case 32-RC-2789

July 31, 1989

DECISION ON REVIEW, ORDER, AND DIRECTION OF ELECTION

BY CHAIRMAN STEPHENS AND MEMBERS CRACRAFT AND HIGGINS

On October 14, 1988, the Regional Director for Region 32 issued a Decision and Order in the above-entitled proceeding in which he found that the petitioned-for unit of the Employer's front desk employees was not an appropriate unit for collective bargaining, and that the only appropriate unit for bargaining was an overall unit including all employees in the housekeeping, maintenance, and front desk departments of the Employer's facility. Inasmuch as the Petitioner was unwilling to proceed to an election in such a unit, the Regional Director dismissed the petition.

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 and Order. The Petitioner contended, inter alia, that the Regional Director erred in failing to find its petitioned-for "front desk" unit to be an appropriate unit under *Omni International Hotel*, 283 NLRB 475 (1987). The Employer filed a statement in opposition to the Petitioner's request for review. The Board, by Order dated January 3, 1989, granted the Petitioner's Request for Review.

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, including the Employer's brief on review, and concludes, in agreement with the Petitioner, that the petitioned-for unit of front desk employees is an appropriate unit for bargaining.

The Employer operates a 128-unit motor hotel consisting of several separate buildings located on common grounds. Its operations include short-term rental apartments and hotel rooms, a pool, and a lagoon.¹ Approximately 35 employees work in the Employer's three departments: housekeeping (13 maids and 4 laundry persons); maintenance (7 regular maintenance and 3 night security/ maintenance); and front desk (5 front desk clerks, 2 night

auditors, and 1 bookkeeper). The maintenance and front desk employees share common supervision by the Employer's manager, who sets all personnel policies and makes all personnel decisions, and by the assistant manager. The housekeeping employees are supervised on a day-to-day basis by the head housekeeper.

The front desk department employees work in the main lobby of the Employer's facility, where both the front desk and the business office are located. Their primary responsibilities include checking guests in and out, handling reservations, taking telephone messages, and maintaining correct billings. The night auditors and the bookkeeper also are responsible for the compilation of daily receipts. The front desk department employees operate the switchboard, a typewriter, and a Burroughs computerized posting machine in performing their duties.

All the Employer's employees have similar working conditions and benefits. All are hourly paid, although there are different wage scales for the three departments and wages within each department are based on longevity. The front desk employees are the highest paid group of employees, with wages ranging from \$9-\$13 per hour.² Vacation, sick leave, and holiday policies are identical, as are health, dental, and vision benefits. All employees receive the same Christmas bonus, have a paid lunch period, and have the same payday. Employees in all three departments work scheduled shifts, and these shifts overlap both within a particular department and with the other departments, 7 days a week.

There is routine contact between employee groups. For example, when guests report a need for a repair or other maintenance, front desk employees will prepare a maintenance problem report (work order) and give it to the maintenance department for action. When the job is completed, the maintenance personnel return the form to the manager with a notation of what was done. Similarly, there is coordination between front desk personnel and the housekeeping staff regarding availability of rooms and items left behind by guests. On the other hand, there have been no permanent transfers or temporary interchange between employee groups. Also, instances of front desk employees performing maintenance or housekeeping tasks have been extremely infrequent, and do not reflect an actual overlap of job functions (e.g., a front

¹ The facility also includes a coffeeshop, which is leased out and is not involved in this proceeding

² Wages for maintenance employees range from \$7.50-\$11 per hour, and for housekeeping employees from \$5.60-\$9 per hour, however, the head maintenance man and the painter, who also performs maintenance work, earn considerably more than the others in their group, and slightly more than the \$13 per hour top wage for the front desk group.

desk employee once adjusted a television for a guest; on another occasion, a front desk employee assisted a maintenance employee who needed "a second pair of hands" to install a shower door).

The Regional Director found that while there was a degree of functional autonomy among employees in the Employer's three separate departments, there also was, due to the relatively small size of the staff, regular and routine contact between employees in the different groups. The Regional Director concluded that those contacts, coupled with centralized supervision by the manager and common personnel policies and terms and conditions of employment, compelled a finding that the petitioned-for unit of front desk employees was an inappropriate unit for bargaining. Moreover, he noted that the evidence of industry practice in the Bay Area was not dispositive as to the issue of a separate unit limited to front desk personnel. Accordingly, the Regional Director found that the only appropriate unit is a unit of all the Employer's employees.

We disagree, and find merit in the Petitioner's contention that the Regional Director erred in failing to apply the principles articulated in *Omni International Hotel*, in which the Board specifically reaffirmed its commitment to a case-by-case approach to unit determinations in the hotel/motel industry, utilizing the same traditional community-of-interest criteria used in other industries.³ Further, the Board reiterated in *Omni* the well-established principle that under the Act a union may petition for an appropriate unit, and is not required to seek the *most* appropriate unit.⁴

In the instant case, the petitioned-for employees enjoy a higher wage scale than employees in other departments; assist employees in other departments only very infrequently; are supervised separately from the housekeeping employees, although they do share common supervision with the maintenance employees; do not interchange with the other employee groups; and, most importantly, perform work which greatly varies in kind from that of the other employees. Thus, as the Board stated in *Regency Hyatt House*, the differences in the nature of the respective duties and in the respective conditions of employment of these employee groups graphically illustrate that the Employer's

"white collar" force (the front desk/clerical employees sought here) do not share a sufficient community of interest with the Employer's "blue collar" force (the manual/physical service employees) to mandate their inclusion in an overall unit.⁵

In contrast, in *Golden Eagle Motor Inn*, 246 NLRB 323 (1979), relied on by the Regional Director, although the size of the facility and the number of employees were comparable to those of the Employer, the Board found that there was a high degree of overlap of job functions, and a similarly high degree of community of interest among job classifications as to wages, hours, benefits, and working conditions. In *Golden Eagle*, unlike here, the front desk employees performed bell functions and routine maintenance as a daily part of their job duties, and, when working on the afternoon and night shifts, regularly cleaned and made up rooms. Thus, the differences in the nature of the employees' respective duties were frequently and regularly blurred. The Board concluded that the front desk employees did not possess a distinct community of interest.⁶

In finding the unit sought by the Petitioner here inappropriate, the Regional Director also appears to have relied, at least in part, on the relatively small size of the facility and staff. However, the Board has not considered size a dispositive factor in making unit determinations in the hotel/motel industry,⁷ and only rarely indicates that it is given significant consideration in other industries.⁸ In sum, while not to be totally ignored, size is a relatively minor factor to be considered when applying the Board's traditional community-of-interest test.

Finally, we observe that the petitioned-for employees, unlike the employees the Petitioner would

⁵ In *Regency Hyatt House*, the Board found that although there was a functional relationship between the hotel clerical employees and the manual operating employees sufficient for it to find an overall unit appropriate if such had been requested, other factors were present to show that the two groups possessed a separate community of interest warranting establishment of the manual operating employees or "blue collar" force as a separate bargaining unit, as requested. The two groups were paid by different methods and were separately supervised, wore different work apparel, and had different work functions. The manual employees' duties consisted of various physical services, whereas the duties of the "white collar" force were primarily clerical. As in the instant case, the front office clerks would relay requests for hotel services to the appropriate department, and there was little, if any, interchange between the groups. 171 NLRB at 1349.

⁶ See also *Days Inn of America*, 210 NLRB 1035 (1974); *Holiday Inn, Pittsburgh*, 214 NLRB 651 (1974), *Holiday Inn-Atlanta Northwest*, 214 NLRB 930 (1974).

⁷ Published decisions in this area seldom mention size, other than to note the number of guestrooms and number of employees as background facts. In a few instances, passing reference has been made to a hotel's "relatively small size" (*Days Inn of America*, supra) or the fact that a hotel was "sizeable" (*Coco Palms Resort Hotel*, 201 NLRB 522 (1973)). However, in each case, the Board's analysis and ultimate unit determination were based on traditional community-of-interest criteria.

⁸ But see *Abdow Corp.*, 271 NLRB 1269, 1270 (1984), *Fidelity Telephone Co.*, 221 NLRB 1335, 1336 (1976).

³ *Omni International Hotel*, 283 NLRB at 475. Accord; *Stanford Park Hotel*, 287 NLRB 1291 (1988). This general criteria includes distinctions in skills and functions of particular employee groups, their separate supervision, the employer's organizational structure, and differences in wages and hours, as well as integration of operations, employee transfer, interchange, and contacts. *Westin Hotel*, 277 NLRB 1506, 1507-1508 (1986), *Atlanta Hilton & Towers*, 273 NLRB 87, 90 (1984), modified on other grounds 275 NLRB 1413 (1985); *Regency Hyatt House*, 171 NLRB 1347, 1348 (1968).

⁴ *Omni International Hotel*, 283 NLRB at 475.

exclude from the unit, are akin to office clerical employees. It is the Board's normal practice not to include office clericals in other units,⁹ and the Board has given separate office clerical units (or excluded office clericals) not only in the hotel/motel industry, but in other industries covered by the Act, where the facts showed such employees shared a separate and distinct community of interest apart from an employer's other employees, regardless of the size of the employer's operations or staff.¹⁰

Accordingly, inasmuch as we find the petitioned-for unit of front desk clerks to be an appropriate

unit for collective bargaining, we reverse the Regional Director's Decision and Order, reinstate the petition, and direct an election among the following employees:

All full-time and regular part-time front desk clerks, night auditors, and bookkeepers employed by the Employer at its Palo Alto, California, facility but excluding housekeeping and maintenance employees, confidential employees, guards, and supervisors as defined in the Act.

ORDER

The petition in Case 32-RC-2789 is reinstated.
[Direction of Election omitted from publication.]

⁹ *L. M. Berry & Co.*, 198 NLRB 217, 219 (1972); *Firemen's Fund Insurance Co.*, 173 NLRB 982, 984 (1968).

¹⁰ See, e.g., *Legal Services for the Elderly Poor*, 236 NLRB 485 (1978); *Armour & Co.*, 15 NLRB 268, 276-277 (1939).