

Some Industries, Incorporated and General Teamsters Union, Local 864, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, Petitioner. Case 14-RC-7280

July 19, 1973

DECISION ON REVIEW AND ORDER

BY MEMBERS JENKINS, KENNEDY, AND PENELLO

On March 28, 1973, the Regional Director for Region 14 issued a Decision and Direction of Election in the above-entitled proceeding, in which he found appropriate the Petitioner's requested unit of all production and maintenance employees and truckdrivers at the Employer's Rolla, Missouri, facility, rejecting the Employer's contention that an immediate election is barred because its operations are expanding and the present unit complement is not a substantial and representative one. Thereafter, the Employer, in accordance with the National Labor Relations Board Rules and Regulations, Series 8, as amended, filed a timely request for review of the Regional Director's Decision on the grounds that he made findings of fact which are clearly erroneous and that he departed from officially reported precedent.

By telegraphic order dated May 7, 1973, the National Labor Relations Board 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 issues under review and finds that no 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, for the following reasons:

The Employer is engaged in the production of plastic plumbing supplies. It began production operations during the last week in December 1972 with 12 employees. By the end of January 1973 it had 20 employees and by March 14, the hearing date in this proceeding, the employment complement had increased to 34. The plant operates 24 hours a day, 7 days a week, and uses four shifts. On each shift there is a shift supervisor, a lead operator, and four extruder operators. At the time of the hearing, the plant was engaged only in the production of plastic pipe and had four extrusion machines in operation. The Employer stated that it was in the process of expanding

its operations by adding more equipment as well as new lines of products, thus necessitating the hiring of more employees and the filling of new job classifications.

With regard to the planned increase in the size of the unit complement, the record indicates that the Employer had ordered an additional extrusion machine which was expected to be operational by the end of March 1973 and would result in the hiring of six more employees. A sixth extrusion machine was on order for delivery in October 1973. Also, four bellling machines, used to bell the ends of the extruded pipe, were on order but had not been received. Printing machines, which were in use, the cutoff saw, and dump tables were still in the process of being permanently installed. At the time of the hearing, the Employer was buying ready-made plastic compound for use in its pipe production. However, it planned to do its own compounding. To that end, it had recently procured the compounding equipment and was on the verge of putting it into use. This operation was expected to require three more employees at the onset. The Employer also planned to produce pipefittings, couplings, bends, and sweeps beginning about July or midsummer 1973 to fill the needs of its Rolla plant and a Pennsylvania subsidiary plant. This operation alone would require between 50 and 75 additional employees. Finally, the Employer asserted that the production of plastic wood at the Rolla facility was to commence by late summer 1973; that the foam extruder for this new operation had been ordered; and that the funds for the operations had been set aside. The Employer estimated its future employment complement at 200 employees, with more than 110 of these to be hired by the end of October 1973.

With respect to the number of classifications needed in its planned expansion of operations, the Employer estimated that by midsummer it would require between 16 and 21 classifications in its operations, as compared with the 6 to 8 classifications it claims were in existence at the time of hearing. The Employer contends that the record does not support the Regional Director's finding that there were then 13 to 15 job classifications filled. We find merit in this contention.

There was testimony by the Rolla plant manager that in addition to the 4 extruder operators, the lead operator, and the shift supervisor on each shift, above referred to, there were 3 maintenance employees, 2 truckdrivers, 4 yard employees, and a general plant laborer, comprising the total complement of 34 employees at the plant. It is noted that the four shift supervisors, who were stipulated by the parties as unit inclusions, were permitted by the Regional Director to vote subject to challenge because of record evidence indicating that they may possess supervisory

authority as it is defined in the Act. Later in the hearing, the Employer's board chairman and vice chairman of operations, in response to questions of the hearing officer, testified that the existing employee complement included the classifications of shipping and receiving clerk and forklift operator, not previously specified by the plant manager. The Hearing Officer then posed the following question: "Would it be reasonable to say, then, that we presently have 13 to 15 job classifications and in your judgment, from 10 to 15 would be added by October 31?" The witness answered: "That's right." The Hearing Officer then asked: "And these, I take it, would be new job classifications?" and the witness responded, "Yes."

We have examined the entire record carefully and find no evidentiary support for the Hearing Officer's assumption in his question to the witness, above-quoted, that the existing complement had 13 to 15 job classifications. Rather, we conclude that, at most, adding the classifications of shipping and receiving clerk and forklift operator, mentioned by the vice chairman of operations in his testimony, to the seven classifications earlier listed by the plant manager, a total of nine classifications were employed at the time of the hearing. In the circumstances, although we

agree that the present complement is substantial in size, relative to the expansion expected by October 1973, we find, in light of the testimony that 10 to 15 new classifications would be added between the hearing date and October 1973,¹ that the present complement is not representative of that which will be employed in the near future.

We shall, therefore, dismiss the petition without prejudice to the filing of a new petition at a time when a representative and substantial complement of employees is employed at the Employer's Rolla plant.

ORDER

It is hereby ordered that the petition herein be, and it hereby is, dismissed.

¹ Although all of the anticipated new classifications were enumerated, the record contains testimony that some of the new categories of employees to be added would be blenders, quality control personnel, tool shop employees, and die storage department employees, and that other new classifications would be required for the operations associated with the fabrication of couplings and fittings, such as chemical welding, heating, belling, machining, and assembling. We reject the Regional Director's finding that the addition of a plastic wood operation is speculative. Although certain details as to financing and its corporate structure had not been worked out, the decision as to those matters was expected within a month, and the testimony that the operation would be undertaken at the Rolla plant was unequivocal.