

Alamo Rent-A-Car and Teamsters Local 665, International Brotherhood of Teamsters, AFL-CIO, Petitioner. Case 20-RC-17501

March 17, 2000

DECISION ON REVIEW AND ORDER

BY CHAIRMAN TRUESDALE AND MEMBERS FOX
AND BRAME

On April 22, 1999, the Acting Regional Director for Region 20 issued a Decision and Direction of Election in the above-entitled proceeding. He found appropriate a unit consisting of only two of the Employer's four San Francisco facilities, and made up of approximately 80 service agents, predelivery inspection employees/fleet control, shuttlers, ready line agents, and "PSRs," and excluding parts and inventory clerk Cherry Ho. Thereafter in accordance with Section 102.67 of the National Labor Relations Board's Rules and Regulations, the Employer filed a timely request for review, contending that only a wall-to-wall unit consisting of employees from all four of the Employer's San Francisco facilities and including parts and inventory clerk Ho is appropriate. The Petitioner filed an opposing brief. By Order dated April 22, 1999, the Board granted the Employer's request for review. The election was conducted as scheduled on April 23, 1999, and the ballots were impounded pending the Board's Decision on 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, including the parties' briefs on review, and has decided to reverse the Acting Regional Director's finding that the petitioned-for unit is appropriate.

The Employer, a national company, engaged in the retail rental of automobiles, has four facilities located in the San Francisco area: a maintenance facility, which is located at Burlingame, and three car rental facilities, which are located at the San Francisco airport (SFO) and on Folsom Street and Bush Street in downtown San Francisco. The Burlingame facility, which is about 3 miles from the airport, previously was the site of all of the Employer's airport-related operations, but since the SFO facility opened in January 1, 1999, cars are no longer rented there. The Burlingame facility currently consists of a car wash, a mechanics' shop which does repair and preventive maintenance work on rental cars from the three rental facilities, and a parking lot. The Employer's new SFO facility, located in a building adjacent to the SFO airline terminal, consists of a rental booth and managers' office on the first floor, an area where customers pick up and return rental vehicles on the fourth floor, and an adjacent garage and car wash. The two downtown locations on Folsom and Bush Streets are rental offices where customers can pick up

and return rental vehicles. The downtown locations are approximately 10 miles from the airport.

As noted above, the Acting Regional Director directed an election in a unit made up of approximately 80 service agents, shuttlers, PDI/fleet control employees, ready line agents, and PSR's employed by the Employer at the Burlingame and SFO locations.¹ The Employer argues that by not including employees from the two downtown locations, the Acting Regional Director arbitrarily excluded two functionally integrated facilities from the unit. The Employer further argues that the only appropriate unit is a wall-to-wall unit that would include, in addition to the petitioned-for classifications, rental agents, administrative clerks, cashiers, mechanics, and mechanics helpers.

We agree with the Acting Regional Director, for the reasons stated by him, that a unit limited in its composition to the job classifications set forth in the Decision and Direction of Election is an appropriate unit. However, we find that his exclusion of parts and inventory clerk Ho from the unit was erroneous. Although Ho works on billing and is located in the same area as the mechanics, who are excluded from the unit, she also has daily interaction with employees who are included in the unit and assists them in inventorying, shuttling, and detailing cars on a regular basis. Because she is subject to the same supervision as the petitioned-for employees, uses similar skills, and performs similar functions with respect to the maintenance and service of rental cars, we find that she shares a community of interest with the unit employees such that she should be included in the unit.

With regard to the multifacility scope of the unit, we also find, contrary to the Acting Regional Director, that a unit that includes employees in the petitioned-for job classifications who work at the Burlingame and SFO facilities, but excludes employees in the same job classifications who work at the two downtown facilities, is not appropriate. Our reasons are as follows.

In determining whether a petitioned-for multifacility unit is appropriate, the Board evaluates the following factors: employees' skills and duties; terms and conditions of employment; employee interchange; functional integration; geographic proximity; centralized control of management and supervision; and bargaining history. *NLRB v. Carson Cable TV*, 795 F.2d 879, 884 (9th Cir. 1986). It is undisputed that the Employer employs service agents, ready line agents, and PSRs at its two downtown San Francisco locations as well as at the Burlingame and SFO locations, that they perform work similar to that performed by employees in the same classifications at the Burlingame and SFO facilities, and that they are all subject to the same terms and conditions of em-

¹ In its petition, the Petitioner also sought to include gate guards employed at the SFO facility. However, the Acting Regional Director excluded the gate guards from the unit on grounds that they are statutory guards, and neither party has requested review of that finding.

ployment under the Employer's FamPact Agreement.² It is also uncontested that the Employer's city manager has centralized control over labor relations at all four facilities and that the parties have no bargaining history. Nevertheless, relying on evidence of employee interchange, functional integration, and geographic proximity, the Acting Regional Director concluded that a unit consisting of employees at the Burlingame and SFO facilities, but not employees at the two downtown locations, is appropriate. We disagree with the Acting Regional Director's analysis of the evidence.

Regarding employee interchange, the only example in the record of a temporary transfer between the petitioned-for facilities is the temporary assignment of Burlingame service agent Danny Elvena to the SFO office, which occurred when the SFO office first opened. The record shows no other evidence of temporary employee transfers, and there is no indication that the Employer regularly utilizes a system of temporary transfers, floaters, or rotation of employees between the two facilities, or indeed, among any of its facilities. Thus, contrary to the Acting Regional Director, analysis of this factor does not support a finding that the two-facility unit is appropriate. *New England Telephone & Telegraph Co.*, 249 NLRB 1166, 1167 (1980) (finding that one temporary transfer during a period of a year constituted insignificant employee interchange).

The record evidence regarding permanent transfers also fails to support the Acting Regional Director's finding that the Burlingame and SFO facilities are so functionally integrated, and distinct from the two downtown facilities, as to constitute a separate appropriate unit. It is undisputed that the Employer has permanently transferred employees from the Burlingame facility to the newly opened SFO facility. However, the Board generally considers permanent transfers to be less indicative of multifacility integration than temporary transfers. *Red Lobster*, 300 NLRB 908, 911 (1990). Moreover, the Board has historically given little weight to even substantial transfers where, as in this case, the transfers are from an existing location to a newly opened facility. *J. L. Hudson Co.*, 155 NLRB 1345, 1348 fn. 9 (1965) (discounting undisputed evidence of large-scale transfer of employees to new facilities in evaluating employee interchange). See also *White Castle System, Inc.*, 264 NLRB 267, 268 (1982) (discounting permanent transfers of employees to a new store in determining employee interchange). We note, in addition, that permanent transfers have also taken place between the SFO facility and the downtown locations.³

² FamPact is an employment contract that covers policies, procedures, benefits, and standards applicable to all members of Alamo's workforce.

³ Specifically, the Employer's city manager, Steve Raffio, testified that two service agents had permanently transferred from the airport to the downtown locations just a week before the hearing.

We also find that the Acting Regional Director erroneously relied on the fact that employees shuttle rental cars between the SFO and Burlingame facilities to support his conclusion that there is substantially greater functional integration between the petitioned-for facilities than there is among all four facilities. Due to the special maintenance functions performed at the Employer's Burlingame facility, cars are also regularly shuttled between the two downtown locations and the Burlingame facility. Specifically, as found by the Acting Regional Director, both the downtown and the SFO locations rely on the mechanics at the Burlingame facility to repair and provide preventative maintenance on the rental cars of all three rental locations.⁴ The Burlingame employees also perform predelivery inspections on all new cars and prepare them for rental use. As cars from all three rental locations are repaired and prepped at the Burlingame facility, they must be shuttled with regular frequency between Burlingame and the three other facilities. In addition, there is frequent shuttling of cars between the SFO facility and the two downtown locations, because more than 50 percent of the cars rented from the downtown locations are dropped off at the SFO facility and must be returned to their original location.

With respect to supervision, it is undisputed that each of the four facilities is under the general supervision of Steve Raffio, the city manager, and Tony Juliano, the regional vice president. Each location has its own supervisor and all four supervisors report to Raffio, who has exclusive control over all labor and employment matters including, transfer, promotions, hiring, and termination of employment.⁵ Significantly, there is no supervisory link between the SFO and Burlingame facilities that is not also shared by the downtown locations.

In conclusion, we find for all of the foregoing reasons that the petitioned-for two-facility unit is not an appropriate unit. The proposed unit does not conform to any administrative function or grouping of the Employer's operations. There is neither substantial employee interchange nor significant functional integration between the two facilities that is distinguishable from that which exists among all four of the San Francisco area facilities. Nor do the employees at the two facilities share common supervision apart from the employees at the other San Francisco facilities. Absent these significant factors, details such as the fact that employees share a common

⁴ This dependence is demonstrated by the fact that only the Burlingame facility employs mechanics, mechanics' helpers, and predelivery inspection workers, and that the rental offices lack the personnel, expertise, and equipment to make even the most minor vehicle repairs.

⁵ Specifically, Raffio testified that the facility supervisors always report to him when they encounter disciplinary or personnel problems. When approached with personnel issues, Raffio investigates the situation and eventually makes the final determination as to whether a suspension, termination, or other personnel action is appropriate given the circumstances presented.

parking lot⁶ and were formerly housed at the same location⁷ fail to establish the appropriateness of the petitioned-for unit. Accordingly, we reverse the Acting Regional Director's finding that the petitioned-for unit is appropriate and hold that a unit of employees that includes the petitioned-for classifications⁸ at the Burlingame and SFO facilities must also include employees in those job classifications who work at the Folsom and Bush Street facilities.⁹

⁶ *ATS Acquisition Corp.*, 321 NLRB 712, 726 (1996) (finding the fact that employees shared common amenities, including parking lots, was not determinative in discerning an appropriate unit).

⁷ Cf. *Oklahoma Blood Institute*, 265 NLRB 1524, 1525 (1982).

⁸ Excluding the classification of gate guards as discussed above.

⁹ The issue of whether a single facility unit could be appropriate has not been litigated, and we express no opinion as to whether such a unit would be appropriate. Since the Petitioner has not indicated whether it is willing to proceed to an election in a unit different from the one petitioned for, the Petitioner may now wish to reconsider whether it

ORDER

The Acting Regional Director's Decision and Direction of Election is reversed. This proceeding is remanded to the Regional Director for further appropriate action consistent with this Order.

wishes to proceed to an election in a different unit. If it does wish to so proceed, it will be necessary for the Petitioner to submit to the Regional Office an adequate showing of interest in such a unit. Accordingly, we direct that the Petitioner advise the Regional Director as to whether or not it wishes to proceed to an election in the unit found appropriate here. If the Petitioner does desire to do so, and has not already submitted a sufficient showing of interest for the unit found appropriate, the Petitioner shall submit its additional interest showing within 14 days from the date of this Decision or such further time as the Regional Director shall allow. See Casehandling Manual (Part 2), Representation Proceedings, Sec. 11031.2. Failure to submit any required additional interest showing or, alternatively, a request to withdraw the petition, within the time provided, will result in the dismissal of the petition.