

Trane, an Operating Unit of American Standard Companies and Local Union No. 562, United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO. Case 14-RC-12421

July 29, 2003

DECISION ON REVIEW AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS WALSH
AND ACOSTA

On March 11, 2003, the Regional Director for Region 14 issued a Decision and Direction of Election in this proceeding. The Regional Director found appropriate the petitioned-for single facility unit of heating, ventilation, and air-conditioning (HVAC) technicians working out of the Employer's Fenton, Missouri facility. The Employer argued that the unit must also include HVAC technicians working from its Cape Girardeau, Missouri facility. Relying on the distance between the two facilities, the lack of significant employee interchange, the absence of bargaining history, and the fact that no other labor organization sought to represent the HVAC technicians in a larger unit, the Regional Director concluded that the Employer failed to rebut the single-facility presumption and directed an election in the petitioned-for unit.

Thereafter, pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations, the Employer filed a timely request for review of the Regional Director's Decision and Direction of Election contending, *inter alia*, that the petitioned-for single-facility unit is not appropriate. On April 23, 2003, the Board granted the Employer's request for review solely with respect to whether the Employer had rebutted the single-facility presumption.

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

After careful consideration of the entire record, including the Employer's brief on review, we find, contrary to the Regional Director, that the Employer rebutted the single-facility presumption and that the unit must include the HVAC technicians working from the Employer's Cape Girardeau facility.

I. FACTS

The Employer manufactures, installs, and services commercial and residential HVAC equipment throughout the United States and abroad. The Employer's operations are divided into various District Sales Offices (DSOs). The St. Louis DSO includes the Employer's

facilities in Fenton, Missouri (Fenton); Cape Girardeau, Missouri (Cape); and Bridgeton, Missouri (Bridgeton).¹

The Fenton facility is the DSO's "main office" and employs approximately 16 HVAC technicians and apprentices and approximately 69 administrative and sales employees. The 35,000 square foot facility is divided between 5000 square feet of warehouse and 30,000 square feet of office space.

The 1000-square-foot Cape facility consists of some small offices, a restroom, and storage space where air filters and specialty tools are stored. The Cape facility employs four HVAC technicians and apprentices and one salesperson.

A. Control Over Daily Operations and Labor Relations

All decisions with respect to policies, procedures, hiring, firing, discipline, leave, vacation, and wages for the St. Louis DSO emanate from Fenton management. In fact, there is no management stationed at the Cape site, and there is no separate supervisor assigned to oversee the Cape HVAC technicians. The St. Louis DSO general operations manager, Randy Crampy, directly supervises both the Fenton and Cape HVAC technicians.² Crampy's office is located in Fenton.

The Fenton office houses all of the St. Louis DSO's administrative functions, such as dispatching, payroll, personnel, finance, and human resources. Both the Fenton and Cape HVAC technicians receive their assignments from a common dispatcher, located in Fenton. Incoming calls to the Cape office are automatically forwarded to the Fenton dispatcher. The Fenton dispatcher then decides which technician to send to the site based on the technical requirements of the job and the job's location. Finally, all training classes, such as service training, safety training, and sexual harassment training, are conducted at Fenton for all facilities in the St. Louis DSO.

B. Employee Skills, Functions, and Working Conditions

With the sole exception of working from two geographically separate facilities, the Fenton and Cape HVAC technicians share identical skills, functions, and working conditions. Both Fenton and Cape technicians

¹ The Employer's Bridgeton facility is a warehouse providing parts for both the Fenton and Cape offices. The Bridgeton facility does not employ HVAC technicians, and no party asserts that its employees are appropriately included in the unit.

² Prior to January 2003, the Employer's service supervisor directly supervised the HVAC technicians. That position was eliminated sometime in January 2003, and the technicians began to report to Crampy. However, at all times, a manager located at the Fenton facility commonly supervised both the Fenton and Cape HVAC technicians.

install new and maintain existing HVAC equipment for both residential and commercial customers using the same equipment and tools.³ The Fenton and Cape technicians also share identical qualifications. All HVAC technicians working out of the St. Louis DSO are required to have a commercial driver's license, a refrigeration certificate permitting refrigerant gas recovery, and a St. Louis County license. The Employer requires the Cape HVAC technicians to carry a St. Louis County license despite the fact that Cape Girardeau is not in St. Louis County because they often perform work in the St. Louis area when needed. Further, both the Fenton and Cape technicians work under the "Trane St. Louis Employee Handbook" and receive identical 401(k), health, dental, vacation, sick leave, stock option plan, and personal day benefits. All HVAC technicians receive an hourly wage based on experience and technical skill. There is no significant wage differential between the Fenton and Cape technicians.

Moreover, HVAC technicians from the Fenton and Cape sites primarily are dispatched from their homes. The Employer does not require the technicians to come into the office every day. Instead, the technicians usually receive their daily work orders at home over the phone or via facsimile. Similarly, they often return the completed work orders and submit their timesheets to the Fenton office via facsimile from home.

C. Employee Interchange

While the Fenton and Cape facilities service different general geographic areas, there are no rigid lines of demarcation between the two. Instead, decisions regarding which HVAC technician to send to a given job are made by considering who has the necessary technical ability and who is closer to the jobsite. The Employer's district manager, Richard Campbell, testified that crossovers between the two facilities happen "hundreds of times a year." Further, workloads in the two areas peak at different times of the year. The Fenton area sees its largest volume of work during January and February when high-rise buildings conduct their annual HVAC overhaul. Because the area serviced by the Cape facility does not have such buildings, Cape technicians are sent to work with Fenton technicians during this time. Similarly, when the Cape area's workload peaks, Fenton technicians are sent to help out. Aside from this yearly interchange, Fenton and Cape technicians work together on jobs that are on the border between the two areas. Spe-

cifically, they worked together on jobs at a large drug store and at a local college.

Moreover, the Fenton and Cape HVAC technicians often contact each other for direction and advice while out on a job. The Employer provides mobile phones and a list of phone numbers allowing the technicians to call each other during the day when they need to get their co-workers' advice on a work-related problem.

D. Distance Between the Facilities and Bargaining History

The Fenton and Cape offices are approximately 108 miles apart. There is no history of bargaining on either a single facility or multifacility basis.

II. ANALYSIS

With respect to unit determinations regarding employees at a single versus multilocation units, the Board has long held that a petitioned-for single-facility unit 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. See *J & L Plate, Inc.*, 310 NLRB 429 (1993). The party opposing the single-facility unit has the heavy burden of rebutting its presumptive appropriateness. However, the Board "has never held or suggested that to rebut the presumption a party must proffer 'overwhelming evidence . . . illustrating the complete submersion of the interests of employees at the single store,' nor is it necessary to show that 'the separate interests' of the employees sought have been 'obliterated.'" *Petrie Stores Corp.*, 266 NLRB 75, 76 (1983).

To determine whether the single-facility presumption has been rebutted, the Board examines a number of community of interest factors, including (1) central control over daily operations and labor relations, including the extent of local autonomy; (2) similarity of employee skills, functions, and working conditions; (3) the degree of employee interchange; (4) the distance between the locations; and (5) bargaining history, if any exists. *J & L Plate, Inc.*, 310 NLRB at 429; *R & D Trucking, Inc.*, 327 NLRB 531 (1999).

Here, it is clear that the employees possess identical skills, perform identical functions, and labor under identical working conditions. Further, all supervisory functions for both Fenton and Cape are centralized at the Fenton office. The DSO's general operations manager is the direct supervisor for both the Fenton and Cape HVAC technicians—responsible for all hiring, firing, disciplinary, and other supervisory decisions. Cape technicians enjoy no separate supervisors or even leadmen apart from their Fenton colleagues. In the same vein, it is also clear that Fenton management centrally controls the daily

³ The Fenton HVAC technicians perform more commercial work and carry a heavier work volume because they are closer to metropolitan St. Louis.

operations and labor relations of the Fenton and Cape offices. In fact, the same Fenton dispatcher dispatches all the technicians. All administrative and management functions are located in Fenton, including payroll and human resources.

The complete absence of any separate supervision or other oversight at the Cape site in these circumstances necessarily leads to the conclusion that the Cape location has no local autonomy apart from Fenton. See *Petrie Stores Corp.*, 266 NLRB at 76 (“Not only does the lack of individual store manager’s autonomy compel a finding that single-store units are inappropriate, so does the high degree of centralization of administration and control.”) (internal quotations and citations omitted). Cf. *AVI Foodsystems, Inc.*, 328 NLRB 426 (1999) (finding local autonomy based on separate immediate supervision and separate day-to-day control over operations); *New Britain Transportation Co.*, 330 NLRB 397 (1999) (finding local autonomy where, among other facts, local dispatchers set schedules, approved time off, and training conducted on a site-by-site basis); *Cargil, Inc.*, 336 NLRB 1114 (2001) (finding local autonomy based on separate supervisory staff).

Accordingly, this case is distinguishable from *Esco Corp.*, 298 NLRB 837 (1990), and *Bowie Hall Trucking*, 290 NLRB 41 (1988). In both cases, the Board found that the single-facility presumption stood un rebutted based in part on evidence of local autonomy. In *Bowie Hall Trucking*, the Board found sufficient local autonomy where the local terminal manager conducted initial screening for new hires and was consulted on major disciplinary issues. See *id.* at 43. In *Esco Corp.*, *supra*, the Board found sufficient local autonomy in the absence of a statutory supervisor assigned to the excluded site. However, the Board found “significant” the fact that the employer relied on a leadman to oversee the operations at the excluded warehouse. The Board relied in part on this “limited local autonomy” in finding that the single facility presumption remained un rebutted. See *Esco Corp.*, *supra* at 838. Here, the Cape location lacks even the “limited local autonomy” found sufficient in *Esco Corp.*

In finding that the Employer failed to present sufficient evidence to rebut the single-facility presumption, the Regional Director relied heavily on the geographic distance between the Fenton and Cape locations and the Employer’s failure to present specific evidence of employee interchange.⁴ However, in the circumstances present here we find that the Regional Director placed too much emphasis on these two factors. First, while we would generally consider a geographic distance of 108 miles between facilities significant, here, its significance is reduced by the fact that the employees are dispatched from their homes, only occasionally go into their respective offices, and the two areas are only loosely defined by fluid lines of demarcation. Second, the Employer’s evidence of regular interchange between the two sites, while general in nature, stands unchallenged in this case. However, even if we were to consider the geographic distance significant and the Employer’s evidence of interchange wanting because it was not of the caliber required under *New Britain Transportation Co.*, *supra* at 398, we find that the centralized control over daily operations and labor relations; lack of local autonomy; common supervision; identical skills, duties, and other terms and conditions of employment; and contact between the Fenton and Cape HVAC technicians outweigh the geographic distance and the lack of specificity as to the level of interchange. See *Waste Management of Northwest*, 331 NLRB 309 (2000).

ORDER

Accordingly, we find that the Employer has rebutted the presumptive appropriateness of the petitioned-for single-facility unit, and we remand this case to the Regional Director for further processing in accordance with this decision.

⁴ The Regional Director’s reliance on the lack of historical bargaining on a multilocation basis to find the petitioned-for unit appropriate is misplaced. Here, the Employer has no bargaining history whatsoever. The complete absence of bargaining history is at most a neutral factor in the analysis.