



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

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In the Matter of the
**REPRESENTATION OF
EMPLOYEES**
of
TOLEDO, PEORIA & WESTERN
RAILWAY
Maintenance of Way Employees

45 NMB No. 7
CASE NO. R-7502
DISMISSAL
February 9, 2018

The services of the National Mediation Board (Board) were invoked by the MOW of TPW on September 25, 2017, to investigate and determine who may represent for the purposes of the Railway Labor Act (RLA), as provided by Section 2, Ninth, thereof, personnel described as “Maintenance of Way Employees,” employees of Toledo, Peoria & Western Railway (Carrier).

At the time this application was received, these employees were represented by the Brotherhood of Maintenance of Way Employees Division-IBT (BMWED).

The Board assigned Investigator Norman Graber to investigate.

FINDINGS

The investigation disclosed that a dispute existed among the craft or class of Maintenance of Way Employees, and by direction of the Board, the Investigator was instructed to conduct an election to determine the employees' representation choice. The election resulted in three votes for BMWED, one vote for MOW of TPW, and four votes for “No Representation.” The RLA, as amended by the Federal Aviation Administration Modernization and Reform Act of 2012, Pub L. No.112-095, provides in Section 2, Ninth that:

In any such election for which there are 3 or more options (including the option of not being represented

by any labor organization) on the ballot and no such option receives a majority of the valid votes cast, the Mediation Board shall arrange for a second election between the option receiving the largest and second largest number of votes.

Accordingly, the Board authorized a run-off election with BMWED and “No Representative” appearing on the ballot, and with no write-in option.

The following is the result of the run-off election as reported by Investigator Maria-Kate Dowling.

<u>Election Results for Maintenance of Way and Employees</u>	
Eligible Employees	8
BMWED	4
“No” Votes	4
Void Votes	0

DISMISSAL

The Board further finds that: the Carrier and employees in this case are, respectively, a Carrier and employees within the meaning of the RLA, as amended; this Board has jurisdiction over the dispute involved herein; and the interested parties, as well as the Carrier, were given due notice of the Board's investigation.

On the basis of the investigation and report of election which establishes that less than a majority of eligible employees cast valid votes for representation, the Board finds no basis for certification and the application is, therefore, dismissed subject to Part 1206.4(b) of the NMB Rules.

By direction of the NATIONAL MEDIATION BOARD.



Mary L. Johnson
General Counsel