



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

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In the Matter of the
Application of the

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS

alleging a representation dispute
pursuant to Section 2, Ninth, of
the Railway Labor Act, as
amended

involving employees of

WESTOURS MCKINLEY
EXPLORER

30 NMB No. 30

CASE NO. R-6929
(File No. CR-6769)

FINDINGS UPON
INVESTIGATION-
DISMISSAL

February 20, 2003

This decision addresses the application of the International Brotherhood of Teamsters (IBT or Organization) alleging a representation dispute pursuant to the Railway Labor Act¹ (RLA) 45 U.S.C. § 152, Ninth (Section 2, Ninth), among “Washmen and Service Employees” employees of Westours McKinley Explorer (Westours or Carrier). The IBT is the certified representative of the Carmen craft or class (NMB Case No. R-6861). The IBT asserts that Washmen and Service Employees are part of the Carmen craft or class.

For reasons set forth below, the National Mediation Board (Board) concludes that the positions of Washmen and Service Employees are already covered by the IBT’s certification. Therefore, the Board dismisses the application.

¹ 45 U.S.C. § 151, *et seq.*

PROCEDURAL BACKGROUND

On October 9, 2002, the IBT filed an application alleging a representation dispute among Westours' Washmen and Service Employees. The Organization requested the Board accrete the Washmen and Service Employees into the Carmen craft or class. This application was assigned NMB File No. CR-6769. Susanna F. Pequignot was assigned as the Investigator.

On October 24, 2002, both the Carrier and the IBT submitted initial position statements. The Carrier responded to the Investigator's request for job descriptions on November 12, 2002.

ISSUE

Are Westours' Washmen and Service Employees part of the Carmen craft or class?

CONTENTIONS

IBT

The IBT contends that Westours' Washmen and Service Employees are part of the Carmen craft or class currently represented by the IBT; therefore, an accretion election is not necessary. The Organization states that the Carmen craft or class consists of Mechanics who perform required and scheduled maintenance on the Carrier's rail cars. In addition, the IBT states that "Carmen/Mechanics perform maintenance on both the exterior and interior operations of the rail cars." The IBT asserts that the Service Employees "act as helpers for the Carmen/Mechanics and work alongside the Mechanics performing many of the same tasks and repairs." The IBT also states that "repairs or general maintenance that are not required to be signed-off on by a certified technician are performed interchangeably by Mechanics and Service Employees."

Therefore, the Organization asserts that the Service Employees share a work-related community of interest with the Mechanics.

The IBT states that the Washmen also share a community of interest with the Mechanics. The Organization contends that the Washmen work closely with the Mechanics and Service Employees washing the exterior and cleaning the interior of the rail cars and preparing the rail cars for passengers. The Organization states that the Board has traditionally included employees performing functions similar to those performed by the Washmen and Service Employees in the Carmen craft or class.

Therefore, the IBT asserts, Westours' Washmen and Service Employees share a work-related community of interest with the Carmen craft or class.

Westours

The Carrier asserts that the Board must dismiss the IBT's application since the "Washmen classification existed at the time of the election conducted among Carmen in January 2002," yet the Washmen were excluded from that election. Secondly, the Carrier argues that "although an arguable community of interest exists between the two groups, to permit an accretion of the Washmen class *without* an election would *double* the size of the existing unit, far beyond the parameters set by *United Airlines*, 27 NMB 165 (1999)."

FINDINGS OF LAW

Determination of the issues in this case is governed by the RLA, as amended, 45 U.S.C. § 151, *et seq.* Accordingly, the Board finds as follows:

I.

Westours is a common carrier by railroad as defined in 45 U.S.C. § 151, First.

II.

The IBT is a labor organization and/or representative as provided by 45 U.S.C. § 151, Sixth and § 152, Ninth.

III.

45 U.S.C. § 152, Fourth, gives employees subject to its provisions “the right to organize and bargain collectively through representatives of their own choosing. The majority of any craft or class of employees shall have the right to determine who shall be the representative of the craft or class for purposes of this chapter.”

IV.

45 U.S.C. § 152, Ninth, provides that the Board has the duty to investigate representation disputes and shall designate who may participate as eligible voters in the event an election is required.

STATEMENT OF FACTS

I.

Westours operates bus lines and the McKinley Explorer, a train that runs only between May and September each year. The McKinley Explorer carries passengers between Anchorage, Alaska, Denali National Park, and Fairbanks, Alaska.

The McKinley Explorer operates out of a rail yard in Anchorage, Alaska, leased from the Alaska Railroad. There is a rail yard in Fairbanks, Alaska, also leased from the Alaska Railroad, for maintenance issues arising during the trip from Anchorage to Fairbanks.

II.

According to the Position Description supplied by the Carrier, Westours' Service Employees perform the following duties:

1. Ensure proper car placement into the yard for the night.
2. Disconnect the HEP [Head End Power] during the separation from the ARR [Alaska Railroad] cars.
3. Check daily service records for each individual car as it arrives.
4. Change the air filters, check oil, and coolant levels.
5. Take wheel measurements for record keeping (Daily/Weekly) and tracking.
6. Comply with all OSHA, ARRC, and Federal regulations relating to the Rail.

The Service Employees are primarily responsible for servicing the Rail Fleet, assisting the Mechanics, and performing other Service-related items as necessary.

Detailers (Washmen) perform the following duties:

1. Empty the garbage upon arrival of the rail cars into the shop.
2. Wash the exterior of the cars.
3. Coordinate with the contracted labor for the cleaning of the interior of the cars.
4. Clean shop/office restrooms and empty any garbage.

5. Keep cleaning room organized.
6. Place all buckets, mops, brushes, and unused supplies back into storage room at the end of the night.

The Detailers (Washmen) are primarily responsible for the cleaning of the Rail Fleet and other cleaning as required.

III.

In *Holland America Westours*, 29 NMB 140 (2002), the Board determined that the individuals employed as Washmen and Service Employees work on a seasonal basis. The Board reached this conclusion based on evidence submitted by the Carrier that these employees have no expectation of re-employment with the Carrier. Therefore, the Washmen and Service Employees were ineligible to vote in the subsequent election certified in *Westours McKinley Explorer*, 29 NMB 194 (2002).

Washmen employed during the season wash the exterior and clean the interior of the rail cars. Washmen employed during the off-season detail and clean the interior of the rail cars. The record establishes that Washmen and Service Employees employed during the season are not necessarily the same individuals employed in the off-season.

DISCUSSION

I. Proper Craft or Class

In determining the proper craft or class for a group of employees, the Board considers a number of factors. These factors include functional integration, work classifications, terms and conditions of employment, and work-related community of interest. *Frontier Airlines, Inc.*, 29 NMB 28 (2001); *United Airlines, Inc.*, 28 NMB 533 (2001); *US Airways, Inc.*, 28 NMB 104 (2000); *Continental Airlines, Inc./Continental Express, Inc.*, 26 NMB 143 (1999). The factor of work-related community of interest is

particularly important. *Continental Airlines, above; LSG Lufthansa Servs., Inc.*, 25 NMB 96 (1997); *Airborne Express, Inc.*, 9 NMB 115 (1981). The Board makes craft or class determinations case by case, based upon Board policy and precedent. *US Airways, above; USAir*, 15 NMB 369 (1988); *Simmons Airlines*, 15 NMB 124 (1988).

In *Pullman Co.*, 1 NMB 503 (1946), the Board stated, “[a]s to car cleaners, the duties of such employees of the Pullman Co. compare closely to coach cleaners employed on railroads generally. The Board has consistently held that railroad coach cleaners are part of the craft or class of carmen.”

The position descriptions establish that Washmen and Service Employees share a work-related community of interest with the craft or class of Carmen. The Washmen work in the same locations as Carmen and Service Employees and share the same working conditions. The Service Employees work alongside the Carmen and act as helpers for the Carmen. Therefore, the Board finds a work-related community of interest exists between Westours’ Washmen and Service Employees and the Carmen craft or class.

II. Temporary Employees

Section 9.202 of the Board’s Representation Manual states:

Only employees with a present interest in the craft or class in dispute are eligible to vote. Temporary employees are eligible if they have a reasonable expectation of continued employment or re-employment in the craft or class.

Having concluded that Washmen and Service Employees are part of the Carmen craft or class, the Board must consider the Carrier’s current operations. The individuals employed as Washmen and Service Employees do not have a reasonable expectation of re-employment. For example, Washmen employed during the season, wash the exterior and clean the interior of the

rail cars. These employees may or may not be the same employees employed in the off-season that detail and clean the interior of the rail cars. Therefore, these individuals are temporary employees and do not have a reasonable expectation of re-employment in the Carmen craft or class.

CONCLUSION

Westours' Washmen and Service Employees share a work-related community of interest with the craft or class of Carmen. However, the individuals employed as Washmen and Service Employees are temporary employees and do not have a reasonable expectation of re-employment in the craft or class. Only individuals with a reasonable expectation of continued employment or re-employment in the craft or class may be added to the existing craft or class. Therefore, these positions are covered by the IBT's certification in NMB Case No. R-6861. The application is converted to NMB Case No. R-6929 and dismissed.

By direction of the NATIONAL MEDIATION BOARD.

Benetta M. Mansfield

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