



NATIONAL MEDIATION BOARD

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31 NMB No. 8
October 31, 2003

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Re: NMB Case No. R-6963
Pinnacle Airlines, Inc.

Gentlemen:

This determination addresses the October 15, 2003 appeal filed by Pinnacle Airlines Corp. (Pinnacle or Carrier) of Investigator Eileen Hennessey's eligibility rulings. For the reasons discussed below, Pinnacle's appeal is denied.

I.

Procedural Background

On August 25, 2003, the Transport Workers Union of America (TWU) filed an application pursuant to the Railway

Labor Act (RLA),¹ 45 U.S.C. § 152, Ninth (Section 2, Ninth), seeking to represent the craft or class of Flight Dispatchers, employees of Pinnacle. On September 8, 2003, Pinnacle provided a List of Potential Eligible Voters (List). The Board found that a dispute existed and authorized an election on September 9, 2003. On September 11, 2003, a letter was sent to the Carrier and TWU setting a schedule for challenges, objections and the election period.

On September 12, 2003, the Organization filed challenges to the List. The TWU asserted that in addition to the Dispatchers, the Supervisors, System Operations Control (SOC) should be included as part of the craft or class. Pinnacle responded on September 25, 2003. On October 10, 2003, the Investigator ruled on the challenges, finding that SOC employees are eligible to vote. The Carrier appealed the Investigator's rulings on October 15, 2003.

The TEV Instructions were mailed on October 2, 2003. The tally is scheduled to take place on October 31, 2003, at 2 p.m. ET.

II.

Investigator's Ruling

The TWU challenged the exclusion of three SOC employees from the List. In support of its position, TWU provided a job description for the SOC Supervisors position stating that SOC Supervisors:

- Supervise Dispatchers;
- Review weather, maintenance data and crew resource factors;
- Maintain operational control;
- Ensure compliance with FAR's and company procedures;
- Coordinate flow of operational information;

¹ 45 U.S.C. § 151, *et seq.*

- Compile daily performance reports;
- Maintain current flight status information;
- Review aircraft maintenance status;
- Relay changes that may affect operations;
- Monitor field conditions;
- Route and re-route aircraft and flight crews to maintain schedule integrity;
- Ensure adherence to departmental guidelines; and
- Act as dispatcher when necessary.

In Pinnacle's September 25, 2003 response, the Carrier asserted that SOC Supervisors are management officials as defined by the Board's Representation Manual (Manual) Section 9.211. The Carrier also provided: an affidavit from the Director of Systems Operations Control for Pinnacle Airlines, W. Kenton Collins; a position description for Systems Operations Supervisor; and evidence that SOC Supervisors have cited dispatch employees for violations of Pinnacle's attendance policy.

The Investigator ruled that SOC Supervisors are subordinate officials within the meaning of the RLA. The Investigator determined that SOC Supervisors: (1) are required to be dispatch qualified and perform dispatch work when the Carrier is short staffed; (2) "participate in the hiring process" but do not have the authority to hire employees; (3) have limited disciplinary authority; and (4) do not have independent authority to reassign dispatchers and authorize overtime and vacations. The Investigator found the evidence insufficient to find SOC Supervisors management officials and ruled that they are eligible to vote.

Pinnacle's Appeal

In its October 15, 2003 appeal, Pinnacle asserts that SOC Supervisors are management officials as defined by Manual Section 9.211. The Carrier further contends that when factors used to distinguish between subordinate officials and management officials are considered cumulatively, SOC Supervisors are management officials and should have been

excluded. The Carrier cites *Pan American World Airways, Inc.*, 5 NMB 112 (1973); *Aerovias De Mexico*, 20 NMB 584 (1993); *American Airlines, Inc.*, 24 NMB 521 (1997) in support of its contentions. The Carrier argues that the Investigator's ruling "ignored evidence that Pinnacle submitted relating to many of the Board's factors, and relied excessively on other factors."

First, the Carrier argues that the status of SOC Supervisors in the corporate hierarchy is critical in showing that they are management officials. Pinnacle explains that the SOC Supervisors are the only management personnel in Systems Operations Control, other than the department's Supervisor and two Managers. Pinnacle further argues that, while SOC Supervisors do occasionally perform dispatch work, it is only under unusual circumstances.

Second, Pinnacle argues that SOC Supervisors play a significant role in the carrier's operations. Pinnacle cites SOC Supervisors' "exercise of direct supervision over on-duty dispatchers and crew schedulers" and their "authority to commit Company resources."

Lastly, Pinnacle argues that contrary to the Investigator's limited characterization of the SOC Supervisors' disciplinary authority, SOC Supervisors do have the authority as management officials to write up disciplinary actions and investigate incidents.

III.

Discussion

The evidence establishes that SOC Supervisors are not management officials.

The Board's Manual Section 9.211 details factors to be considered in determining whether an individual is a management official. These elements include:

- (1) the authority to dismiss and/or discipline employees or to effectively recommend the same;
- (2) the authority to supervise;
- (3) the ability to authorize and grant overtime;
- (4) the authority to transfer and/or establish assignments;
- (5) the authority to create carrier policy; and
- (6) the authority to commit carrier funds.

The Board also considers:

- (1) whether the authority exercised is circumscribed by operating and policy manuals;
- (2) the placement of the individual in the organizational hierarchy of the carrier; and
- (3) any other relevant factors regarding the individual's duties and responsibilities.

See also Pan American World Airways, Inc., above, (the factors the Board examines are considered cumulatively).

The Board has determined in previous decisions that “while there are certain factors indicating some level of authority, when all factors are viewed cumulatively the individuals at issue generally are first-line supervisors, not management officials.” *Airtran Airways, Inc.*, 29 NMB 77, 87 (2001) (citing *USAir, Inc.*, 24 NMB 38, 41 (1996)).

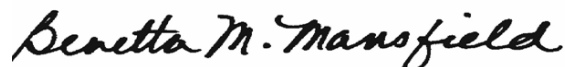
The Board applied these standards in *United Airlines, Inc.*, 30 NMB 163 (2002), and found that United's Planners and Controllers were not management officials. The Board noted that while there were some indicia of managerial responsibilities, there was “no evidence that these individuals could authorize or grant overtime, discipline or effectively recommend discipline for employees, or create Carrier policy.” *Id.* at 172. Moreover, the Board found a lack of evidence to show that they had the power to transfer and/or establish assignments, or commit carrier funds.

In *Airtran Airways, Inc., above*, the Board found that evidence was insufficient to establish that AirTran's Line Maintenance Supervisors were management officials. While the Board did find some evidence of managerial status, the Board found more persuasive the inability of these individuals to commit Carrier funds, or formulate Carrier policy. Moreover, the Board found insufficient evidence to show that these individuals could effectively authorize overtime, hire, or fire.

In contrast to the above determinations, the Board in *United Airlines, Inc.*, 30 NMB 9 (2002), found that Lead Engineers were management officials and properly excluded from the List. The cumulative evidence effectively proved that Lead Engineers were management officials since they "direct work, participate in the hiring process, evaluate employee performance, effectively recommend promotions, play a role in disciplinary proceedings . . . approve overtime, and . . . commit Carrier funds." *Id.* at 14.

The evidence in this case fails to establish that Pinnacle's SOC Supervisors are management officials. While there is some indication that these individuals possess a degree of managerial authority, the cumulative record of evidence fails to support a conclusive finding of their status as management officials as defined by Manual Section 9.211. There is no evidence to show that these individuals have the authority to hire employees, and their ability to reassign dispatchers, and vacations is subject to "management approval." Moreover, these individuals are required to be dispatch qualified and perform dispatch work when necessary. Therefore, the Board finds that SOC Supervisors are not management officials.

By direction of the NATIONAL MEDIATION BOARD.



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