



NATIONAL MEDIATION BOARD

WASHINGTON, DC 20572

(202) 692-5000

In the Matter of the
Application of the

INTERNATIONAL UNION, UNITED
AUTOMOBILE, AEROSPACE &
AGRICULTURAL IMPLEMENT
WORKERS OF AMERICA

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

involving employees of

USA JET AIRLINES

31 NMB No. 22

CASE NO. R-6977

ORDER

December 19, 2003

This determination addresses the December 18, 2003 appeal filed by USA Jet Airlines (USA Jet or Carrier) of Susanna C. Fisher's election rulings. For the reasons discussed below, the appeal is denied.

PROCEDURAL BACKGROUND

On November 13, 2003, the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW or Organization) filed an application pursuant to the Railway Labor Act (RLA), 45 U.S.C. § 152, Ninth (Section 2, Ninth), seeking to represent the craft or class of Pilots, employees of USA Jet. On November 26, 2003, the Carrier provided the Board with a List of Potential Eligible Voters in this case. The Board authorized a Telephone Electronic Voting (TEV) election on December 2, 2003. Also on December 2,

2003, the Investigator sent a letter to the Carrier and the UAW setting a schedule for challenges and objections and the election period. On December 8, 2003, USA Jet notified the Board of its intention to object to the "election arrangements". The Carrier also stated that "voter mailing labels will not be provided at this time". The Carrier filed its objections to the election dates on December 12, 2003.

On December 15, 2003, the Investigator denied the Carrier's request to delay representation proceedings. The Carrier was again directed to provide mailing labels to the Board by December 17, 2003. The Carrier appealed the Investigator's ruling on December 18, 2003. On December 18, 2003, the Carrier also stated,

We must respectfully decline to provide at this time the mailing labels in this matter for the following reason:

1. Our appeal upon your decision of December 15, 2003 has been filed.
2. The unit make up has not been decided (UAW objections of December 10, 2003, our response to which will be filed).

As of the date of this decision, the Carrier has not provided the mailing labels.

Investigator's Ruling

USA Jet requested that the Board reschedule the election period to allow the Carrier an opportunity "to present its position on the matter of union representation." The Carrier asserted that its operations are virtually closed down during the holiday season and, therefore, requested that the election period begin no earlier than January 13, 2004. In support of its position, the Carrier submitted a declaration from Patricia Angott, Director of Human Resources.

The Investigator denied USA Jet's request for a postponement of the voting period based on the Board's longstanding policy to resolve representation disputes as expeditiously as possible. In addition, the Investigator stated that: "It is the Board's consistent practice to proceed with representation elections unless the Board finds it necessary to delay due to unusual or complex issues, or is barred by court order."

USA Jet's Appeal

The Carrier submitted its December 12, 2003 submission and stated:

For the reasons set forth in USA JetAirlines' ("Carrier") attached December 12, 2003 objection, the Carrier hereby appeals Investigator Susanna C. Fisher's December 15, 2003 ruling denying its request to postpone the election period in the above-captioned matter.

DISCUSSION

It is the Board's longstanding policy, consistent with Section 2, Ninth, to resolve representation disputes as expeditiously as possible. See *In Continental Airlines Corp.*, 50 B.R. 342, 358 (S.D. Tex. 1985), *aff'd, per curiam*, 790 F.2d 35 (5th Cir. 1986) ("The RLA furthers Congress' strong policy of guaranteeing employees the right to organize and collectively bargain free from any carrier interference or influence delays in NMB precertification proceedings seriously hamper such organizational efforts"); *Brotherhood of Ry. & S.S. Clerks*, 380 U.S. 650, 668 (1965) (speed is accordingly an RLA "objective of the first order").

The Board has refused to delay elections and suspend representation investigations in situations of bankruptcy and pending mergers. *Raytheon Travel Air*, 29 NMB 18 (2002); *Eastern Airlines, Inc.*, 17 NMB 432 (1990); *Continental, above*. It is the Board's consistent practice to proceed with representation elections unless the Board finds it necessary to

delay due to unusual or complex issues, or is barred by court order. *United Airlines, Inc.*, 30 NMB 278, 282 (2003); *Chatauqua Airlines, Inc.*, 21 NMB 226, 227-228 (1994); *Tower Air*, 16 NMB 326 (1989). *See also, USAir*, 17 NMB 69 (1989) (Board denied Organization's request to postpone an election because it would be more difficult for the Organization to reach the employees.)

It is the Board's consistent practice to rule on all challenges and objections during the election period. Therefore, the Investigator will rule on the UAW's challenges after the TEV Instructions have been mailed and before the tally.

CONCLUSION AND ORDER

The Board finds no basis to delay the representation proceedings. Accordingly, USA Jet's appeal is denied and the TEV election will proceed as scheduled. Therefore, the Carrier is ordered to furnish alphabetized peel-off labels bearing the names and current addresses of the employees on the List of Potential Eligible Voters as stated in the Investigator's letter of December 2, 2003. The Carrier must provide this information no later than **4 p.m., ET, Monday, December 22, 2003**. If the Carrier refuses to comply with this ORDER, the Board will take any action it deems necessary pursuant to its authority under Section 2, Ninth.

By direction of the NATIONAL MEDIATION BOARD.

Benetta M. Mansfield

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Chief of Staff

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