



NATIONAL MEDIATION BOARD

WASHINGTON, DC 20572

(202) 692-5000

In the Matter of the Application of the INTERNATIONAL UNION, UNITED AUTO WORKERS alleging a representation dispute pursuant to Section 2, Ninth, of the Railway Labor Act, as amended involving employees of USA JET AIRLINES, INC.	31 NMB No. 69 CASE NO. R-6995 (File No. CR-6806) FINDINGS UPON INVESTIGATION- DISMISSAL- INSUFFICIENT SHOWING OF INTEREST March 1, 2004
--	--

This determination addresses the application of the International Union, United Auto Workers (UAW or Organization), alleging a representation dispute pursuant to the Railway Labor Act (RLA), 45 U.S.C. § 152, Ninth, (Section 2, Ninth), among “Airframe & Powerplant (Mechanics),” employees of USA Jet Airlines, Inc. (USA Jet or Carrier). At the time this application was received, these employees were not represented by any organization or individual.

For reasons set forth below, the National Mediation Board (Board) concludes that the proper craft or class is Mechanics and Related Employees.

PROCEDURAL BACKGROUND

On November 13, 2003, the UAW filed an application alleging a representation dispute among USA Jet’s “Airframe & Powerplant (Mechanics).” The Board assigned Susanna Fisher

as the Investigator. On November 26, 2003, the Carrier provided the Board with a List of Potential Eligible Voters (List) in this case. On December 3, 2003, the UAW submitted its initial position statement asserting that the following job classifications: fuel/cargo, stores, facilities maintenance, simulator and quality control are not part of the “airframe/powerplant maintenance (mechanics)” craft or class. On December 5, 2003, the Investigator requested that the Carrier respond to the UAW’s position statement. On December 8, 2003, the Carrier notified the Investigator that it had not received the UAW’s December 3, 2003, submission. The Investigator provided USA Jet a copy of the submission on December 9, 2003. The Carrier requested and received an extension of time to respond until December 17, 2003. USA Jet submitted its response on December 17, 2003. The Carrier supplemented its filing with position descriptions on December 18, 2003. The UAW did not respond to the Carrier’s December 17, 2003, response.

ISSUE

What is the proper craft or class for USA Jet’s “airframe/powerplant maintenance (mechanics)”?

CONTENTIONS

I. UAW

The UAW asserts that it seeks only to represent “airframe/powerplant maintenance (mechanics).” The UAW objects to the Carrier’s inclusion of Fuel/Cargo, Stores, Facilities Maintenance, Simulator and Quality Control Employees because they do not share a community of interest with the “airframe/powerplant maintenance (mechanics).”

II. USA Jet

USA Jet asserts the following: (1) the UAW’s objection to the inclusion of Fuel/Cargo, Stores, Facilities Maintenance, Simulator, and Quality Control Employees should be rejected because the UAW failed to simultaneously serve the Carrier; (2)

the UAW's objections should be rejected because the UAW failed to provide any substantive evidence or Board precedent in support of its contentions, and; (3) Fuel/Cargo, Stores, Facilities Maintenance, Simulator and Quality Control Employees should be included in the Mechanics and Related Employees craft or class with Airframe and Powerplant Mechanics.

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.

USA Jet is a common carrier by air as defined in 45 U.S.C. § 181.

II.

The UAW 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

The Carrier provided the following job descriptions:

Fuel/Cargo Employees

The Carrier included the following positions in this classification:

1. Aircraft Cleaner – cleans the interior and exterior of aircraft;
2. Ramp/Fueler – fuels, tows, marshals, supports the maintenance department, ensures proper fuel loads, provides support to customer service, supplies ground power and airstarts, and water de-icing operations;
3. Ramp Supervisor – ensures fueling and launch readiness, provides ground support for taxiing and parking, ensures daily inspection of ground equipment, de-ices, and supervises employees in the Ramp/Fuel department;
4. Loadmaster – loads and unloads aircraft and trucks, fuels equipment, washes vehicles, and cleans designated areas;
5. GSE Mechanic – assists in daily and monthly maintenance of all company vehicles, and orders and maintains parts and inventory;
6. Fuel Account Assistant – processes all fuel invoices that are delivered to the carrier and serving as a part-time dispatcher;
7. Cargo Supervisor – responsible for Cargo Department shift operations by performing duties personally or through subordinate employees, and;

8. Ground Service Dispatcher – documents cargo and fuel notes, communicates requests to cargo and fuel departments, and administers charges to aircraft for fuel purchases.

Stores Employees

The Carrier included the following positions in this classification:

1. Stores Supervisor – maintains training records for Stores employees, ensures parts, tools and supplies are properly packaged and stored, monitors tool chit program;
2. Stock Room Lead – assists Stockroom Supervisor in the daily activities and operations of the stockroom;
3. Stock Room Clerk – controls and documents the movement of aircraft parts to and from the stockroom, and maintains aircraft stores area;
4. Shipping & Receiving Lead – assists the Stores Supervisor in the daily activities and operations of the stockroom, ensures Shipping/Receiving personnel are trained, and ensures that parts and equipment are received and inspected in a timely manner;
5. Shipping & Receiving Engine Shop Clerk – copies and tracks backing paperwork, and issues parts from the engine shop inventory;
6. Shipping & Receiving Clerk – ships and receives materials from outside vendors, and maintains equipment and package materials;
7. Purchasing Agent – procures parts and supplies, and;

8. Purchasing Coordinator – solves invoicing problems, expedites overdue orders, and files purchase/repair orders.

Facilities Maintenance Employees

The Carrier included the following positions in this classification:

1. Facilities Supervisor – inspects equipment, including HVAC systems and cleans the facility, and;
2. Facilities Engineer – performs custodial duties in and around the facility including maintaining hangar floors, cleaning, painting, plumbing, light/electrical, and lawn care.

Simulator Employees

The Carrier included the following positions in this classification:

1. Lead Simulator Technician – schedules simulator for preventative maintenance, assigns daily maintenance priorities for Simulator Technicians, supervises Simulator Technicians' training, develops preventative maintenance schedule, and maintains an inventory of required tools and testing equipment as necessary, and;
2. Simulator Technician – provides maintenance of USA Jet's Flight Simulator equipment.

Quality Control Employees

The Carrier included the following positions in this classification:

1. Inspection Supervisor – performs required

inspections on aircraft engines and appliances to ensure all maintenance performed conforms to Carrier's standards;

2. CASE Auditor – supervises and performs auditing of all Carrier facilities and contract vendors and parts suppliers;

3. Training Programs Coordinator – supervises and coordinates all maintenance and training activities;

4. Quality Control Records Supervisor – oversees aircraft records to ensure all required inspections, hard time and life limited items are within prescribed limits, and;

5. Records Clerk – maintains the aircraft record files to ensure all data required by the Federal Aviation Administration is maintained and current.

DISCUSSION

I. Procedural Issues

Section 8.2 of the Board's Representation Manual (Manual) states that,

All challenges or objections must be supported by substantive evidence. Unsupported allegations will not be considered. Questions or issues concerning craft or class objections must be supported by NMB case citation.

The cover page of the Manual states:

This Manual provides general procedural guidance to the National Mediation Board's staff with respect to the processing of representation cases before the NMB. Such procedural guidance is not required by or subject to the Administrative Procedure Act. The provisions of this Manual are neither obligatory

upon the Members of the Board nor do they constitute the exclusive procedure for the NMB's investigation of representation matters pursuant to the Railway Labor Act.

Although the UAW failed to simultaneously serve the Carrier with its initial position statement, the Carrier received a copy from Investigator Fisher and had over one week in which to respond. Furthermore, although the UAW failed to support its objections with case citation, the Board declines to dismiss UAW's objections based on these grounds.

II. 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. *United Parcel Serv. Co.*, 30 NMB 84 (2002); *Frontier Airlines, Inc.*, 29 NMB 28 (2001); *United Airlines, Inc.*, 28 NMB 533 (2001); *US Airways, Inc.*, 28 NMB 104 (2000). The factor of work-related community of interest is particularly important. *Continental Airlines, Inc./Continental Express, Inc.*, 26 NMB 143 (1999); *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).

The Board has examined the proper scope of the craft or class of Mechanics and Related Employees in numerous decisions. *United Parcel Serv. Co., above*; *US Airways, above*; *United Parcel Serv. Co.*, 27 NMB 3 (1999); *Allegheny Airlines, Inc.*, 26 NMB 487 (1999). In *United Airlines, Inc.*, 6 NMB 134 (1977), the Board, quoting *Nat'l Airlines, Inc.*, 1 NMB 423, 428-29 (1947), described the composition of the Mechanics and Related Employees, in part, as follows:

A. Mechanics who perform maintenance work on aircraft, engine, or accessory equipment.

B. Ground service personnel who perform work generally as follows: Washing and cleaning airplane, engine and accessory parts in overhaul shops; fueling of aircraft and ground equipment; maintenance of ground and ramp equipment; maintenance of buildings, hangars and related equipment; cleaning and maintaining the interior and exterior of aircraft; servicing and control of cabin service equipment; air conditioning of aircraft; cleaning of airport hangars, buildings, hangar and ramp equipment.

C. Plant maintenance personnel—including employees who perform work consisting of repairs, alterations, additions to and maintenance of buildings, hangars, and the repair, maintenance and operation of related equipment including automatic equipment.

The Board has further stated, “[t]he related employees . . . while of different skill levels from the mechanics, nonetheless are closely related to them in that they are engaged in a common function – the *maintenance function . . .*” *Eastern Air Lines, Inc.*, 4 NMB 54, 63 (1965) (emphasis added). See also *US Airways*, 28 NMB 50 (2000); *Federal Express Corp.*, 20 NMB 360 (1993).

The Board has included classifications other than mechanics in the Mechanics and Related Employees craft or class. *United Parcel Serv. Co.*, 30 NMB 84 (2002) (Editors and ATA Specialists); *US Airways, Inc.*, 28 NMB 104 (2000) (Planners and Technical Specialists); *US Airways*, 28 NMB 50 (2000) (Quality Assurance Consultants); *United Parcel Serv. Co.*, 27 NMB 3 (1999), and; *Allegheny Airlines Inc.*, *above*, (Maintenance Controllers).

A. Fuel/Cargo Employees

USA Jet’s Fuel/Cargo Employees are responsible for cleaning the interior and exterior of the aircraft, fueling the

aircraft, loading and unloading cargo, and cleaning and maintaining carrier vehicles. The Fuel/Cargo Employees' positions will be addressed separately.

The Board has found that employees engaged in cleaning airplane exteriors and interiors are part of the Mechanics and Related Employees craft or class. *Northwest Airlines, Inc.*, 22 NMB 29; *United Airlines, Inc.*, *above*. The Board has also found that employees engaged in the fueling of aircraft are also included in the Mechanics and Related Employees craft or class. *United Air Lines, Inc.*, 22 NMB 12 (1994). Therefore, USA Jet's Aircraft Cleaners, Ramp/Fuelers, Ramp Supervisors, GSE Mechanics, Fuel Account Assistants, and Ground Service Dispatchers share a community of interest with the Mechanics and Related Employees craft or class.

USA Jet's Loadmasters and Cargo Supervisors are primarily responsible for loading and unloading baggage. Traditionally, the Board has found that employees engaged primarily in the loading and unloading of baggage do not share a community of interest with the Mechanics and Related Employees craft or class. *United Airlines, Inc.*, 6 NMB 463 (1978). Therefore, the Board finds that USA Jet's Loadmasters and Cargo Supervisors do not share a community of interest with the Mechanics and Related Employees craft or class.

B. Stores Employees

The Stores Employees at USA Jet receive, inspect, sort, store, and issue supplies. Employees with these responsibilities have traditionally been found to be separate from the Mechanics and Related Employees craft or class. *Comair, Inc.*, 9 NMB 2 (1981); *Western Air Lines, Inc.*, 4 NMB 74 (1965); and *Braniff Int'l Airways*, 1 NMB 456 (1948). The Carrier relies on the Board's decision in *Frontier Airlines, Inc.*, 29 NMB 28 (2001), in which the Board found that Tool Room Attendants are part of the Mechanics and Related Employees craft or class. The Board based its decision on the fact that the Tool Room Attendants "directly service the mechanics and maintain maintenance vehicles." *Id.* at 37-38. The Carrier has not shown such a community of interest in this case.

Therefore, the Stores Employees are not part of the Mechanics and Related Employees craft or class.

C. Facilities Maintenance Employees

Facilities Maintenance Employees inspect equipment and perform custodial duties in and around the maintenance facility. The evidence establishes that the Facilities Maintenance Employees at USA Jet perform work traditionally performed by employees in the Mechanics and Related Employees craft or class. *Dalfort Aerospace, L.P.*, 30 NMB 40 (2002); *United Airlines, Inc.*, 6 NMB 134 (1977). Therefore, these employees are properly part of the Mechanics and Related Employees craft or class.

D. Simulator Employees

Simulator Employees are responsible for providing maintenance to USA Jet's flight simulator equipment. The Board has found simulator employees to be part of the Mechanics and Related Employees craft or class on numerous occasions. *Pacific Southwest Airlines*, 14 NMB 10 (1986); *Piedmont Airlines*, 10 NMB 504 (1983); *Frontier Airlines, Inc.*, 7 NMB 84 (1979); *American Airlines*, 5 NMB 248 (1976). For these reasons, the Board finds that the Simulator Employees share a community of interest with the Mechanics and Related Employees and are properly part of the Mechanics and Related Employees craft or class at USA Jet.

E. Quality Control Employees

Quality Control Employees are responsible for inspecting and overseeing the maintenance operations and equipment to ensure compliance with Carrier and Government regulations. Employees with these duties are traditionally included in the Mechanics and Related Employees craft or class. *US Airways*, 28 NMB 50 (2000); *Ross Aviation, Inc.*, 22 NMB 89 (1994); *United Airlines, Inc.*, 22 NMB 12 (1994); *United Air Lines, Inc.*, 5 NMB 65 (1968); *Eastern Air Lines, Inc./United Air Lines, Inc./Seaboard World Airlines, Inc.*, 4 NMB 54 (1965). Therefore, Quality Control Employees share a work-related community of

interest with Mechanics and Related Employees.

CONCLUSION

The Board finds that the proper craft or class for the “airframe/powerplant maintenance (mechanics)” is Mechanics and Related Employees.

29 C.F.R. § 1206.2(b) provides:

Where the employees involved in a representation dispute are unrepresented, a showing of proved authorizations from at least thirty-five (35) percent of the employees in the craft or class must be made before the National Mediation Board will authorize an election or otherwise determine the representation desires of the employees under the provisions of section 2, Ninth, of the Railway Labor Act.

The investigation established that the UAW failed to support its application with the required number of authorizations from the employees in the craft or class.

Therefore, the Board finds no basis to proceed in this matter and the application is hereby dismissed. File No. CR-6806 is converted to Case No. R-6995 and closed.

By direction of the NATIONAL MEDIATION BOARD.



Mary L. Johnson
General Counsel

Copies to:
David Mikesell, Esq.
Donald E. McNeff, Esq.
Mr. Miguel Foster