



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
**AEKO KULA, INC. D/B/A ALOHA
AIR CARGO**

36 NMB No. 24

CASE NOS. R-7198 and
R-7199
(File No. CR-6949)

**FINDINGS UPON
INVESTIGATION-
AUTHORIZATION OF
ELECTIONS**

February 13, 2009

This determination addresses the application filed by the International Brotherhood of Teamsters, Airline Division (IBT) alleging a representation dispute pursuant to the Railway Labor Act* (RLA), 45 U.S.C. § 152, Ninth (Section 2, Ninth). The IBT seeks to represent the craft or class of Cargo Agents and Supply Agents at Aeko Kula, Inc. d/b/a Aloha Air Cargo (Aloha Air Cargo or Carrier). At the time this application was received, these employees were represented by the International Association of Machinists and Aerospace Workers, AFL-CIO (IAM).

For the reasons discussed below, the National Mediation Board (NMB or Board) finds that Cargo Agents and Supply Agents do not constitute an appropriate craft or class, but are two separate crafts or classes.

* 45 U.S.C. § 151, *et seq.*

PROCEDURAL HISTORY

On October 30, 2008, the IBT filed an application alleging a representation dispute among the Carrier's Cargo Agents and Supply Agents. The Board assigned Susanna F. Parker as the Investigator.

On November 12, 2008, the Carrier filed a List of Potential Eligible Voters (List) and signature samples for those on the List. The Carrier also submitted a collective bargaining agreement (CBA) between Aloha Air Cargo and the IAM. On November 25, 2008, Investigator Parker requested the participants submit position statements. Aloha Air Cargo submitted a position statement on December 1, 2008. The IBT submitted a position statement on December 2, 2008 and the IAM submitted a position statement on December 3, 2008. On December 5, 2008, the Investigator requested that the participants submit responses to the position statements. The IBT responded on December 12, 2008. Neither the Carrier nor the IAM submitted responses to the position statements.

ISSUE

Do Cargo Agents and Supply Agents constitute an appropriate craft or class?

CONTENTIONS

IBT

The IBT asserts that the craft or class of Cargo and Supply Agents at Aloha Air Cargo is comprised of employees from three classifications: Cargo Agents, Cargo Crew Chiefs, and Supply Clerks. The IBT contends that these employees share a "community of interest and have work responsibilities similar to the well-established Fleet Service Employees" at passenger airlines. *See Airline Industry Hearings*, 5 NMB 1, 4 (1972); *USAir*, 15 NMB 369, 378, 395 (1988). The IBT states that the Carrier believes these employees comprise a single craft or class and "[t]he collective bargaining agreement between Aloha and the IAM, which covers only Cargo Agents, Cargo Crew Chiefs and Supply Clerks, also acknowledges that these three classifications comprise a single community of interest."

The IBT agrees with the IAM that Cargo Agents perform primarily Fleet Service work although they do perform some non-Fleet Service work. The IBT contends that Cargo Crew Chiefs perform the same work as the Cargo Agents they supervise. The IBT also states that the Carrier acknowledges that Cargo Agents and Cargo Crew Chiefs are on the same crew. Citing *Mesaba Airlines*, 26 NMB 227 (1999), the IBT asserts that “Cargo Crew Chiefs are thus classic examples of ‘subordinate officials’ who are members of the craft or class they supervise.”

The IBT contends that Supply Clerks should also be included in the Fleet Service Employees craft or class since they have traditionally been included in the same CBA as Fleet Service employees at Aloha Air Cargo’s predecessor, Aloha Air. Furthermore, the IBT asserts that the present CBA recognizes the historical community of interest by continuing to cover all three classifications under one contract. The IBT argues that the Board recognizes the existence of a community of interest as an important factor in determining the scope of a craft or class. See *Halo Flight, Inc.*, 30 NMB 297, 303 (2003).

IAM

The IAM contends that “Cargo Agents preponderantly perform the duties of loading and unloading cargo and mail, operating ramp equipment and motorized ground equipment, cleaning, servicing and towing of aircraft and equipment, and other cargo services.” Pursuant to Board precedent, the IAM concludes that these duties are included in the Fleet Services Employees craft or class. *Airline Industry Hearings, above*. Citing the Carrier’s December 1, 2008 submission, the IAM states that Cargo Agents also perform “cargo services including telephone sales, customer information and the cargo office duties.” The IAM asserts that these duties are typically performed by employees in the Passenger Service craft or class. *United Air Lines, Inc.*, 6 NMB 180 (1977).

The IAM argues that Cargo Crew Chiefs preponderantly perform air cargo functions, but also have “substantial contact with shipping customers and with other carriers.” Citing *AirTran Airways, Inc.*, 28 NMB 500 (2001) and *National Airlines, Inc.*, 27 NMB 550 (2000), the IAM asserts that Cargo Crew Chiefs perform duties typically performed by employees in the Passenger Service craft or class.

The IAM contends that Cargo Agents “preponderantly perform Fleet Service functions while Cargo Crew Chiefs preponderantly perform Passenger Service functions.” The IAM argues that Cargo Agents are part of the Fleet Service Employees craft or class and Cargo Crew Chiefs are properly part of the

Passenger Service Employees craft or class “unless the Board determines that the Fleet and Passenger Service functions on the Carrier should be combined in a single craft or class.”

The IAM states that Supply Clerks perform storekeeping or stock clerk functions and are a separate craft or class of Stock Clerks. *See International Air Serv. Co. Ltd.*, 19 NMB 146 (1992); *Jet America Airlines, Inc.*, 12 NMB 185 (1985); *Comair, Inc.*, 9 NMB 2 (1981); *United Airlines, Inc.*, 5 NMB 65 (1968).

Carrier

The Carrier does not take a position regarding the proper craft or class for Cargo Agents and Supply Agents. The Carrier submitted a statement listing the duties of the Cargo Agents, Cargo Crew Chiefs, and Supply Clerks “which it believes have a strong community of work-related interest with those described in the IBT’s application to represent ‘cargo agents’ and ‘supply clerks.’”

The Carrier states that Cargo Agents and Crew Chiefs perform functions typically performed by passenger service employees and ramp agents; a Cargo Crew Chief is a lead Cargo Agent; and, Cargo Agents and Cargo Crew Chiefs are on the same crew.

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.

Aloha Air Cargo is a common carrier by air as defined in 45 U.S.C. § 181.

II.

The IBT and the IAM are labor organizations and/or representatives as provided by 45 U.S.C. § 151, Sixth.

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 the 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 job duties for the Cargo Crew Chiefs, Cargo Agents, and Supply Clerks as outlined in the CBA are as follows:

Cargo Agent- an employee whose work assignments include: the loading and unloading of cargo, mail, and aircraft and ground equipment movement, as well as cleaning, service and towing of aircraft and equipment, cargo transfers, cargo warehousing and cargo services including telephone sales, customer information and the cargo office duties.

Cargo Crew Chief – a working member of the crew and responsible for the coordination, leadership and direction of employee activities within an assigned group. Assignments include: (1) The performance of air cargo functions, booking, routing and coordinating of the movement of all cargo, including international, to the final destination including the coordination and booking of cargo on other carriers; and (2) Ensure optimum customer service in the performance of cargo service functions and responsibilities, compliance with Company policies and procedures while maximizing all efforts towards achieving departmental and corporate goals.

Supply Clerks – a working member of the shift's crew and responsible for the issuing, receiving, shipping and accounting for Company property and keeping records of such transactions. May be required to transport Company equipment and property and shall conduct inventories of stock.

DISCUSSION

In determining the proper craft or class for a group of employees, the Board considers a number of factors including functional integration, work classifications, terms and conditions of employment, and work-related

community of interest. *Talleyrand Terminal R.R. Co.*, 35 NMB 28 (2007); *United Air Lines, Inc.*, 32 NMB 75 (2004); *National R.R. Passenger Corp.*, 31 NMB 178 (2004); *United Parcel Serv. Co.*, 30 NMB 84 (2002). It is particularly important that the employees share a work-related community of interest. *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 recognizes that employee representatives and carriers may enter into voluntary agreements covering any collective bargaining grouping which they may determine is appropriate. However, the Board is not bound by these agreements. *The Galveston Wharves*, 4 NMB 200 (1962). The Board makes craft or class determinations on a case by case basis, relying upon Board policy and precedent. *National R.R. Passenger Corp.*, *above*; *US Airways, Inc.*, 28 NMB 104 (2000); *US Air*, 15 NMB 369 (1988); *Simmons Airlines*, 15 NMB 124 (1988).

In *Airline Industry Hearings*, 5 NMB 2 (1972), the Board described the composition of Fleet Service Employees:

1. Load and unload aircraft or baggage, express, freight, mail, company material, buffet and food suppliers;
2. Deliver and pick up baggage and freight to and from baggage and freight areas;
3. Sort baggage and freight;
4. Operate and position ramp equipment and motorized ground equipment (vehicles);
5. Complete required paperwork directly associated with the movement of baggage, freight, buffet and food supplies; and
6. Perform other duties generally considered as ramp duties such as interior cabin cleaning; cleaning ramp and ramp equipment; reporting repairs needed on ramp equipment; and other miscellaneous ramp duties.

Cargo Agents perform Fleet Service work including the loading and unloading of cargo and mail from aircraft; using and moving ground equipment; cleaning, servicing, and towing aircraft and equipment; cargo

transfers; cargo warehousing; and cargo services. Based on the evidence presented, the Board finds that Cargo Agents are properly part of the Fleet Service Employees craft or class.

In *Continental Airlines*, 10 NMB 433, 446 (1983), and *United Airlines, Inc.*, 6 NMB 134, 143 (1977), the Board stated, “[t]he fact that certain supplemental duties are performed by these employees does not overcome the readily distinguishable nature of their primary responsibilities.”

Cargo Crew Chiefs are working members of the crew. In addition to the duties of Cargo Agents, Cargo Crew Chiefs coordinate and direct employee activities, and are responsible for booking, routing, and coordinating the movement of all cargo. Cargo Crew Chiefs do not perform management functions. Based on the evidence presented, the Board finds that Cargo Crew Chiefs are properly part of the Fleet Service Employees craft or class.

The Supply Agents at Aloha Air Cargo are responsible for issuing, receiving, shipping, and tracking Carrier property. These are duties traditionally performed by employees in the Stock Clerk craft or class. *International Air Serv. Co., Ltd. (IASCO)*, 19 NMB 146 (1992); *El Al Israeli Airlines*, 12 NMB 279 (1985); *Jet America Airlines, Inc.*, 12 NMB 185 (1985); *Comair, Inc.*, 9 NMB 2 (1981); and *Braniff Internat’l Airways*, 1 NMB 456 (1948). The Board has consistently found that employees performing stock and stores functions are in a separate craft or class. *International Air Serv. Co., Ltd. (IASCO)*, *above*; *El Al Israeli Airlines*, *above*; *Jet America Airlines, Inc., Id.*; *Comair, Inc.*, *above*; and *Braniff Internat’l Airways*, *above*. In *El Al Israeli Airlines*, *above*, the Carrier asserted that stock and stores employees were part of the Fleet and Passenger Service Employees craft or class since they performed the same duties as Cargo Agents, who were part of the Fleet and Passenger Service craft or class. The Board stated that “[s]torekeepers on El Al are primarily responsible for ‘shipping, receiving, sorting, warehousing, . . . and labeling.’ These functions are those traditionally performed by employees in the Stock and Stores craft or class, not the Fleet and Passenger craft or class. . . .” *El Al Israeli Airlines*, 12 NMB 279. After reviewing the evidence and submissions presented, the Board finds that Supply Agents at Aloha Air Cargo are a separate craft or class of Stock Clerk employees.

CONCLUSION AND AUTHORIZATION OF ELECTION

As discussed above, Aloha Air Cargo’s Cargo Agents and Cargo Crew Chiefs are employees eligible for representation under the RLA in the Fleet Services Employees craft or class and the Supply Agents are eligible for representation under the RLA in the Stock Clerk craft or class. As such, NMB

Case No. CR-6949 is converted to NMB Case Nos. R-7198 (Fleet Service Employees) and R-7199 (Stock Clerks).

The Board finds a dispute to exist in NMB Case No. R-7198, among Fleet Service Employees of Aeko Kula, Inc. d/b/a Aloha Air Cargo, sought to be represented by the IBT and currently represented by the IAM. A TEV and Internet election is hereby authorized using a cut-off date of October 24, 2008.

The Board finds a dispute to exist in NMB Case No. R-7199, among Stock Clerks of Aeko Kula, Inc. d/b/a Aloha Air Cargo, sought to be represented by the IBT and currently represented by the IAM. A TEV and Internet election is hereby authorized using a cut-off date of October 24, 2008.

Pursuant to Manual Section 12.1, the Carrier is hereby required to furnish, within five calendar days, 1" x 2 5/8", peel-off labels bearing the alphabetized names and current addresses of those employees on the Lists. The Carrier must print the same sequence number from the Lists beside each voter's name on the address label. The Carrier must use the most expeditious method possible, such as overnight mail, to ensure that the Board receives the labels within five calendar days. Tally in Washington, D.C.

By direction of the NATIONAL MEDIATION BOARD.



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