



NATIONAL MEDIATION BOARD
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37 NMB No. 17

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Re: NMB File No. C-6965/Case No. R-2293
Illinois Central Railroad

Participants:

This determination addresses the request from the United Transportation Union (UTU) and the Illinois Central Yardmaster Association (IC-Yardmaster Association) to transfer the certification in Case No. R-2293 from the IC-Yardmaster Association to the UTU. For the reasons discussed below, the National Mediation Board (Board) grants the request and transfers IC-Yardmaster Association's certification in R-2293 to the UTU.

BACKGROUND

IC-Yardmaster Association was certified to represent the general yardmasters, assistant general yardmasters, yardmasters, general stationmasters, and assistant stationmasters on Illinois Central Railroad (Carrier) in Case No. R-2293. *Illinois Central R.R.*, 2 NMB 182 (1950). In a letter dated October 30, 2009, the UTU and the IC-Yardmaster Association notified the Board of the merger between IC-Yardmaster Association and the UTU and requested that the Board transfer IC-Yardmaster Association's certification to the UTU. The Board notified the Carrier of the UTU and IC-Yardmaster Association's request and gave the Carrier until November 18,

2009 to provide the Board with any comments. The Carrier submitted comments on November 18, 2009 and the UTU responded on November 20, 2009.

CONTENTIONS

A. Carrier

The Carrier does not oppose or support the UTU's request to transfer certification but states that the record does not establish "what information, if any, was provided to the employees in connection with the merger vote." The Carrier also states that

it does not appear that the employees have information about the proceeding and the consequences of the Board's decision. To prevent any potential disputes concerning representation on the property in the future, the NMB may wish to undertake such inquiries of the affected labor organizations and employees sufficient to ensure that a majority of employees in the craft or class support representation of IC's Yardmasters by the UTU. Until such time that the NMB makes its decision, the UTU would be free to continue its efforts to organize IC's Yardmasters through the Board's normal election procedures.

B. UTU

The UTU contends that the request for transfer of certification should be granted for the following reasons:

The Carrier does not have standing to prevent the merger between the UTU and the IC-Yardmaster Association.

This is not a representation case, but rather an internal union matter. The Board grants requests for transferring certifications absent evidence of fraud or gross abuse in the merger or election.

There is no evidence of fraud or abuse in the election. The election was conducted by the American Arbitration Association and was open for 25 days. A majority of employees voted to transfer the certification.

THE MERGER OF IC-YARDMASTER ASSOCIATION AND UTU

According to the letter from the UTU and the IC-Yardmaster Association and the accompanying document, the American Arbitration Association (AAA)

conducted an election by telephonic voting from October 2, 2009 through October 27, 2009, asking the members if they approved a merger between IC-Yardmaster Association and the UTU. AAA tallied the votes on October 27, 2009, and reported the following results:

50 Voting Instructions Sent to Yardmasters
 29 Ballots Cast
 15 Votes for [the merger with UTU]
 14 Votes Against

DISCUSSION

The Railway Labor Act* requires only that the Board investigate a transfer of certification based on a union merger rather than mandating any procedures for such an investigation. *Continental Airlines, Inc., v. Nat'l Mediation Bd.*, 793 F. Supp. 330 (D.D.C. 1991), *aff'd mem.*, 957 F.2d 911 (D.C. Cir. 1992).

In most instances, the Board grants a transfer request based upon assertions contained in the request letters. *Capitol Cargo Int'l Airlines, Inc.*, 34 NMB 190 (2007); *St. Lawrence & Atlantic R.R., Inc.*, 32 NMB 49 (2004); *Consolidated Rail Corp.*, 28 NMB 30 (2000); *Big Sky Transp. Co.*, 25 NMB 376 (1998); *Desert Sun Airlines*, 24 NMB 137 (1997); *Northwest Airlines*, 18 NMB 446 (1991). The Board views an organization's decision to merge into another organization as an internal union matter and will grant requests for transfers of certification based on union mergers unless there is evidence of fraud or gross abuse in the merger or election. *Northwest Airlines, above*, at 448.

There is no evidence of fraud or gross abuse in the merger or election process in this case. IC-Yardmaster Association members voted in a secret ballot election to merge with the UTU. Based on its investigation, the Board finds that IC-Yardmaster Association has merged with the UTU. The Board's records are revised to reflect the transfer of the certification issued to IC-Yardmaster Association in NMB Case No. R-2293 to the UTU.

By direction of the NATIONAL MEDIATION BOARD.



Mary L. Johnson
 General Counsel

* 45 U.S.C. § 151, *et seq.*