



NATIONAL MEDIATION BOARD

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37 NMB No. 28

February 24, 2010

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Re: NMB File No. C-6971
Southern Air, Inc.

Participants:

This determination addresses the request from the International Brotherhood of Teamsters (IBT) and the Southern Air Crew Group (SACG) (collectively the Organizations) to transfer the certification in Case No. R-7128 from the SACG to the IBT. For the reasons discussed below, the National Mediation Board (Board) grants the request and transfers SACG's certification in R-7128 to the IBT.

BACKGROUND

The SACG was certified to represent the Cockpit Crew Members on Southern Air, Inc. (Carrier) in Case No. R-7128 (2007). In a letter dated January 6, 2010, the IBT and the SACG notified the Board of the merger between the IBT and the SACG effective January 6, 2010, and requested that

the Board transfer SACG's certification to the IBT. The Board notified the Carrier of the IBT and the SACG request and gave the Carrier until January 26, 2010 to provide the Board with any comments. The Carrier did not submit any comments in this matter.

THE MERGER OF SACG AND IBT

According to the letter from the Organizations and the accompanying documents, consistent with the Constitutions and the By-laws, the governing bodies of both unions have approved a merger agreement. SACG conducted a secret ballot election among its members. Ballots were mailed to Cockpit Crew Members on November 26, 2009 asking the members if they approved a merger between SACG and the IBT. Voting took place from November 26, 2009 through December 3, 2009. Election Trust, an election-management company, tallied the ballots on December 3, 2009, and reported the following results:

291 Voting Instructions Sent to Cockpit Crew Members
 244 Ballots Cast
 217 Votes for [the merger with IBT]
 27 Votes Against

Following the ratification vote, SACG and the IBT signed the Merger Agreement. SACG signed on December 30, 2009, and the IBT signed on January 6, 2010. The merger of the two organizations became effective January 6, 2010.

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

* 45 U.S.C. § 151, *et seq.*

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. In accordance with its Constitution and By-laws, SACG members voted by secret ballot to merge with the IBT. Ballots were returned by approximately 84 percent of the eligible members and, of those voting, nearly 89 percent voted in favor of the merger. Based on its investigation, the Board finds that SACG has merged with the IBT. The Board's records are revised to reflect the transfer of the certification issued to SACG in NMB Case No. R-7128 to the IBT.

By direction of the NATIONAL MEDIATION BOARD.

A handwritten signature in cursive script that reads "Mary L. Johnson".

Mary L. Johnson
General Counsel