



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

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In the Matter of the Application of the	39 NMB No. 12
AIR LINE PILOTS ASSOCIATION	CASE NO. R-7305 (File No. CR-7000)
alleging a representation dispute pursuant to Section 2, Ninth, of the Railway Labor Act, as amended	FINDINGS UPON INVESTIGATION- CERTIFICATION
involving employees of	December 8, 2011
UNITED AIR LINES AND CONTINENTAL AIRLINES	

This determination addresses the application filed by the Air Line Pilots Association (ALPA or Organization) seeking to represent the craft or class of Flight Deck Crew Members at United Airlines (United or Carrier). For the reasons discussed below, the National Mediation Board (NMB or Board) certifies ALPA to represent, for purposes of the Railway Labor Act (RLA), as amended, the craft or class of Flight Deck Crew Members.

PROCEDURAL BACKGROUND

On October 1, 2010, United notified the Board that an Agreement and Plan of Merger dated May 2, 2010 resulted in the merger of United Air Lines, Inc. and Continental Airlines. On December 10, 2010, ALPA filed an application alleging a representation dispute involving the crafts or classes of Flight Deck Crew Members and Flight Instructors at the Carriers, also including Continental Micronesia, Inc. (CMI). The Board determined that the Carrier was a single carrier for the crafts or classes of Flight Deck Crew Members and Flight Instructors on November 1, 2011. *United Air Lines/Continental Airlines*, 39 NMB 33 (2011). In that decision, the Board also denied ALPA's request to combine the crafts or classes of Flight Deck Crew Members and Instructors. The Board converted ALPA's application from CR-

7000 to R-7305 for Flight Deck Crew Members and assigned Angela I. Heverling to investigate the representation consequences.

ISSUE

Who is the duly designated representative of the craft or class of Flight Deck Crew Members at United?

FINDINGS OF LAW

Determination of the issues in this case is governed by the Act, as amended, 45 U.S.C. § 151-188. Accordingly, the Board finds as follows:

I.

United is a common carrier as defined in 45 U.S.C. § 181, First.

II.

ALPA is a labor organization and/or representative as defined in 45 USC § 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 to designate who may participate as eligible voters in the event an election is required. In determining the choice of the majority of employees, the Board is “*authorized to take a secret ballot of the employees involved or to utilize any other appropriate method of ascertaining the names of their duly designated and authorized representatives . . . by the employees without interference, influence, or coercion exercised by the carrier.*”

STATEMENT OF FACTS

The Flight Deck Crew Member craft or class at both pre-merger United and pre-merger Continental are represented by ALPA. At United, the Flight Deck Crew Members are certified under NMB Case No. R-3463. At Continental, the Pilots are certified under NMB Case No. R-6193. The Board has recognized that the craft or class of Flight Deck Crew Members includes pilots. *United Air Lines*, 3 NMB 56 (1961). As of November 30, 2010, there were 12,063 Flight Deck Crew Members at the Carrier. This number includes 7432 at pre-merger United and 4631 at pre-merger Continental and CMI. ALPA has requested that the Board consolidate its certifications at the merged Carrier.

DISCUSSION

45 U.S.C. § 152, authorizes the Board to investigate disputes arising among a carrier's employees over representation and to certify the duly authorized representative of these employees. Section 2, Ninth grants the Board discretion to "*utilize any other appropriate method of ascertaining the names of their duly designated and authorized representatives . . .*" The Board has exclusive jurisdiction over representation questions under the RLA. *Gen. Comm. of Adjustment of Bhd. of Locomotive Eng'rs for Mo.-Kan.-Tex. R.R. v. Mo.-Kan.-Tex. Ry. Co.*, 320 U.S. 323 (1943); *Switchmen's Union of N. Am. v. Nat'l Mediation Brd.*, 320 U.S. 297 (1943). *See also Bhd. of Ry. and S.S. Clerks v. Ass'n for the Benefit of Non-Contract Employees*, 380 U.S. 650 (1965).

The Board has previously determined that ALPA is the certified representative of the craft or class of Flight Deck Crew Members at pre-merger United and pre-merger Continental. In cases where an organization has certifications covering the same craft or class at both carriers prior to a merger, the Board has certified the organization as the representative of the combined craft or class at the merged carrier. *See, e.g. US Airways/America West*, 33 NMB 293, 294-95 (2006); *Pennsylvania Airlines/Allegheny Commuter Airlines*, 19 NMB 362, 370 (1992).

CONCLUSION

NOW, THEREFORE, in accordance with Section 2, Ninth, of the RLA, as amended, and based upon its investigations, the Board certifies that ALPA has been duly designated and authorized to represent the craft or class of Flight Deck Crew Members, employees of United, its successors and assigns.

By direction of the NATIONAL MEDIATION BOARD.

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

Mary L. Johnson
General Counsel

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