



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

(202) 692-5000

In the Matter of the
Application of

INTERNATIONAL ASSOCIATION
OF MACHINISTS AND
AEROSPACE WORKERS

alleging a representation dispute
pursuant to Section 2, Ninth, of
the Railway Labor Act, as
amended

involving employees of

BUFFALO & PITTSBURGH
RAILROAD

44 NMB No. 26

CASE NO. R-7495
File No. CR-7162

FINDINGS UPON
INVESTIGATION-
DISMISSAL

May 19, 2017

This determination addresses the application of the International Association of Machinists and Aerospace Workers (IAM) alleging a representation dispute pursuant to the Railway Labor Act (RLA),¹ 45 U.S.C. § 152, Ninth (Section 2, Ninth), among Machinist/Locomotive Mechanic Employees at Buffalo & Pittsburgh Railroad (Carrier or BPRR). IAM maintains that the applied-for employees belong in the Machinists and Machinists Helpers craft or class at BPRR, and that the National Mediation Board (Board or NMB) has already certified it as the representative of that craft or class.

For the reasons set forth below, the Board concludes that the employees at issue belong in BPRR's Machinists and Machinists Helpers craft or class. Because IAM is already the certified representative of that craft or class, the Board dismisses the application.

¹ 45 U.S.C. § 151, *et seq.*

PROCEDURAL BACKGROUND

On January 9, 2017, IAM filed an application alleging a representation dispute involving the “Machinist/Locomotive Mechanic” Employees at BPRR. IAM requests that the Board accrete those employees to its existing Machinists and Machinists Helpers craft or class, and supports its request with authorization cards. The application was given NMB File No. CR-7162 and Andres Yoder was assigned as the Investigator.

On February 8, 2017, the Carrier submitted a position statement, the List of Potential Eligible Voters, and signature samples for those potential voters. The Carrier also submitted documentation in support of its statement on February 23, 2017. IAM responded to the Carrier on March 10, 2017 with its own statement and supporting documentation.

ISSUE

Do the applied-for employees belong in BPRR’s Machinists and Machinists Helpers craft or class?

CONTENTIONS

BPRR

The Carrier argues that the employees at issue do not belong in the Machinists and Machinists Helpers craft or class. Rather, they are properly included in a proposed craft or class of “[C]omposite [M]echanics.”

IAM

IAM asserts that the employees at issue belong in the existing Machinists and Machinists Helpers craft or class because their respective job duties are “virtually identical[.]”

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.

BPRR is a carrier as defined in 45 U.S.C. § 151, First.

II.

IAM 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 to designate who may participate as eligible voters in the event an election is required.

STATEMENT OF FACTS

Background

BPRR is a railroad with operations in Pennsylvania and New York. Among its employees are individuals who work out of the following four Pennsylvania locations: Butler; Brookville; Homer City; and Warren. In 1990, the Board certified IAM as the representative of the Machinists and Machinists Helpers craft or class at BPRR. See *Buffalo & Pittsburgh R.R., Inc.*, 17 NMB 127 (1990) (NMB Case No. R-5931).

The Carrier and IAM agree that IAM’s certification covers certain employees at BPRR’s Butler location. However, IAM argues that its certification also covers five employees at BPRR’s Brookville location. In response, the Carrier maintains that those five employees are instead part of a proposed Composite Mechanics craft or class, along with 10 other employees who work out of Brookville, Homer City, and Warren.

The IAM Collective Bargaining Agreement

The collective bargaining agreement that resulted from IAM's certification (IAM CBA) identifies two jobs, "Machinists" and "Machinists Helpers," and summarizes those jobs as "servicing and maintaining locomotives and their appurtenances" Machinists' particular duties include:

- "[S]ervice, inspect and supply locomotives with fuel, water, lubricating material, sand, station[e]ry, cab [supplies], and sanitary supplies."
- "[M]aintain and install wheel sets, draft systems[] and their components, trucks and their components, air brakes, engine components, air compressors, [turbochargers], blowers, filters, fuels systems, lube oil systems, engine cooling systems, car bodies, cabs, doors, [and] windows"
- "[I]ninstall and align rotating equipment, fabricate and fasten various locomotive parts as may be required to service and maintain electrical equipment incidental to servicing and inspecting or in case of emergency."

Machinists Helpers' particular duties include:

- "Service, inspect, and supply locomotives with fuel, water[,] lubricating material, brake shoes, sand, sand hoses and their piping, [and] cab supplies"
- "[W]ash and clean locomotives, cabs and cab bodies."
- "[A]ssist . . . [M]achinist[s]"

The Employees Covered by the Application

The Carrier argues that 15 employees are covered by IAM's application, and that their job duties are "notably wider" than the duties performed by the existing Machinists and Machinists Helpers craft or class, which are outlined in the IAM CBA. According to the Carrier, the 15 employees are called "[C]omposite [M]echanics[,]" and "it would not be feasible or practical to . . . divide [their] duties into separate specific crafts"

The Carrier supports its argument with a position profile for a job called "Mechanic I" (Mechanic I Profile), which, according to the Carrier, delineates the work Composite Mechanics perform. The Mechanic I Profile summarizes

the Mechanic I job as “[i]nspect[ing,] servic[ing,] and maintain[ing] . . . locomotives[,]” and lists duties that include the following:

- “Performs daily . . . locomotive inspection”
- “Performs periodic service on locomotives”
- “Replaces locomotive and diesel engine components”
- “Diagnoses malfunctions in diesel engines, air equipment, trucks, or other components”
- Maintains knowledge as to the “handling of hazardous and non-hazardous waste products.”
- “Performs daily service of locomotives”
- “Performs periodic and annual inspections” of locomotives.

The Carrier also supports its argument with an “Employee Agreement” that names 12 of the 15 employees it identifies as Composite Mechanics. The Employee Agreement applies to BPRR employees who are not “represented by a duly accredited labor organization[,]” and whose job classifications are described as “Carmen, Car Inspectors, Mechanics, [and] Mechanic/Electricians and their Helpers.” In addition, Exhibit 5 of the Employee Agreement separately “outline[s] the seniority” for employees who are “responsible for . . . dumping coal and limestone” at BPRR’s dump site in Homer City.

IAM responds by asserting that its application only covers five of the 15 employees the Carrier names, and that those five employees perform job functions that are similar to those performed by the existing Machinists and Machinists Helpers craft or class.

IAM supports its argument with a declaration from an employee who performs the duties described in the Mechanic I Profile. The Declarant made statements relevant to the five employees identified by IAM, and to the 15 employees identified by the Carrier. First the Declarant addressed the employees identified by IAM. According to the Declarant, those individuals “perform the mechanical work on Locomotives.” After listing a number of specific job tasks the five employees perform, the Declarant maintained that those tasks are consistent with both the IAM CBA and the Mechanic I Profile.

The Declarant then addressed the employees identified by the Carrier. Of the 15 employees the Carrier listed, the Declarant had knowledge of 14. Aside from the five employees identified by IAM, the Declarant said the employees the Carrier listed “are classified as either . . . Carmen, Electricians,

or Coal Dumpers.” “Carmen perform the mechanical work on the railcars[,]” the Declarant explained, and “Electricians perform the major electrical work required.” Finally, the Declarant asserted that the Carrier does not assign any of the 14 employees he knows about to work in more than one job classification, and that he had “never heard anyone referred to as a Composite Mechanic.”

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. *E.g.*, *US Airways, Inc.*, 28 NMB 104 (2000). The Board makes craft or class determinations case by case, based upon Board policy and precedent. *E.g.*, *United Parcel Serv. Co.*, 30 NMB 84 (2002). In general, “historical patterns of representation in the railroad industry provide the basis for craft or class determinations.” *Ontario Midland R.R.*, 10 NMB 18 (1982). However, in some cases, when employees work in more than one craft or class, the Board may look beyond traditional groupings. *E.g.*, *Bauxite & N. Ry.*, 44 NMB 7 (2017).

Here, the Carrier argues that the employees at issue have job functions that are broader than those of the existing Machinists and Machinists Helpers craft or class. Accordingly, the Carrier proposes a craft or class of Composite Mechanics, and argues that the applied-for employees are properly included in that craft or class. The Carrier, however, has failed to support its argument.

The Carrier says that the employees at issue are responsible for the job duties listed in the Mechanic I Profile. But those duties are not broader than the duties performed by the existing Machinists and Machinists Helpers craft or class, which are outlined in the IAM CBA. Rather, the work described in Mechanic I Profile is essentially the same as the work described in the IAM CBA.

Additionally, the Carrier has not provided any evidence that it cross-utilizes the employees at issue across traditional craft or class lines. The Employee Agreement identifies work classifications that are consistent with well-established crafts or classes like Mechanics, Carmen, and Electricians,²

² See, *e.g.*, *Atlantic Coast Line R.R. Co.*, 1 NMB 12 (1937) (certifying a representative for “machinists, their helpers and apprentices”); *Southern Pac.*

and it mentions a separate group of employees who dump coal and limestone. However, the Employee Agreement does not reference a Composite Mechanic job that combines those job classifications. In fact, nothing in the record shows that the employees at issue split time between job classifications.

In this case the record supports the finding that the five employees identified by IAM perform work that is similar to the work performed by the existing Machinists and Machinist Helpers craft or class. Both groups inspect, service, and maintain locomotives. As a result, those five employees belong in the Machinists and Machinist Helpers craft or class.

Accretion

The Board has broad discretion to determine the manner in which it conducts investigations in representation disputes. *See Brotherhood of Ry. & S.S. Clerks v. Ass'n for the Benefit of Non-Contract Employees*, 380 U.S. 650 (1965). When a labor organization submits an application to represent employees who already belong in a craft or class it is certified to represent, the Board's established policy is to dismiss the application on the grounds that an election is unnecessary. *E.g., Ross Aviation, Inc.*, 22 NMB 89 (1994). In such cases, if the application is supported by the requisite 50 percent showing of interest, the Board accretes the employees to the craft or class in which they belong. *E.g., Southwest Airlines*, 42 NMB 110 (2015).

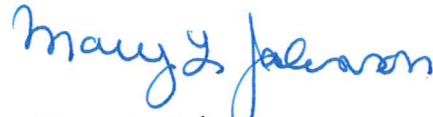
In this case, IAM is already certified to represent BPRR's Machinists and Machinists Helpers craft or class; the five employees IAM applied for belong in that craft or class; and IAM supported its application with more than the requisite 50 percent showing of interest. Consequently, it is appropriate to accrete the applied-for employees to BPRR's Machinists and Machinists Helpers craft or class.

Lines – Texas & Louisiana (Texas & New Orleans R.R. Co.), 1 NMB 96 (1938) (authorizing separate elections among the crafts or classes of “carmen” and “electrical workers”).

CONCLUSION

The Board finds that the employees covered by IAM's application belong in BPRR's Machinists and Machinists Helpers craft or class, a group IAM is already certified to represent. As there is no further basis for investigation, NMB File No. CR-7162 is converted to NMB Case No. R-7495 and dismissed.

By direction of the NATIONAL MEDIATION BOARD.



Mary L. Johnson
General Counsel

Copies to:
Jackie Newstadt
Jonathan Pope
Bridget Shepard
Timothy Klima
Carla Siegel
John Lacey