



NATIONAL MEDIATION BOARD
WASHINGTON, DC 20572

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In the Matter of the
Application of the

INTERNATIONAL ASSOCIATION
OF MACHINISTS & AEROSPACE
WORKERS, AFL-CIO

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

involving employees of

UNITED AIRLINES, INC.

30 NMB No. 22

CASE NO. R-6927
(File No. CR-6761)

FINDINGS UPON
INVESTIGATION-
DISMISSAL

December 20, 2002

This decision addresses the application of the International Association of Machinists & Aerospace Workers, AFL-CIO (IAM or Organization) alleging a representation dispute pursuant to the Railway Labor Act¹ (RLA) 45 U.S.C. § 152, Ninth (Section 2, Ninth), among “Planners - System Aircraft Maintenance; Controllers - System Aircraft Maintenance; and Controllers - Engine Maintenance” (Planners and Controllers) employees at United Air Lines, Inc. (United or Carrier). The IAM is the certified representative of the Mechanics and Related Employees craft or class on United (NMB Case No. R-4546). *United Airlines, Inc.*, 6 NMB 210 (1977). The IAM asserts that the Planners and Controllers are part of the Mechanics and Related Employees craft or class.

¹ 45 U.S.C. § 151, *et seq.*

For reasons set forth below, the National Mediation Board (Board) finds that the Planners and Controllers are already covered by the IAM's certification. Therefore, the Board dismisses the application.

PROCEDURAL BACKGROUND

On August 9, 2001, in *United Airlines, Inc.*, 28 NMB 533 (2001) (NMB Case No. R-6814), the Board dismissed the Aircraft Mechanics Fraternal Association's application to represent the Mechanics and Related Employees. The Board dismissed the application due to an insufficient showing of interest.²

On May 21, 2002, the IAM filed an application alleging a representation dispute among United's Planners and Controllers. The Organization requested the Board accrete the Planners and Controllers into the Mechanics and Related Employees craft or class. This application was assigned NMB File No. CR-6761. Mary L. Johnson was assigned as the Investigator.

United submitted a position statement on June 13, 2002, stating that the Maintenance Operation Controller job title does not exist and, therefore, the application should be dismissed. In addition, United stated that the application should be dismissed subject to the one-year dismissal bar contained at 29 C.F.R. § 1206.4(b)(2). On June 18, 2002, the IAM responded and amended its application to cover the following job titles: Planners - System Aircraft Maintenance; Controllers - System Aircraft Maintenance; and Controllers - Engine Maintenance. United replied to the IAM's position statement on July 12, 2002, and again stated that the application should be dismissed pursuant to 29 C.F.R. § 1206.4(b)(2). On September 11, 2002, the Board stated that the issue of the one-year bar was rendered moot by

² Because the IAM is the incumbent representative, any application for the craft or class must be supported by a showing of interest from the majority of the craft or class. 29 C.F.R. § 1206.2(a).

the passage of time and requested United submit a position statement addressing the substantive issues of the case. United filed an additional position statement on September 18, 2002, and the IAM responded on November 12, 2002.

ISSUES

Should United's Planners and Controllers be included in the Mechanics and Related Employees craft or class?

CONTENTIONS

United

The Carrier asserts that the IAM's application must be dismissed for three reasons:

- (1) On August 9, 2001, the Board dismissed Case No. R-6814 covering "Controller-Engine Maintenance, Controller - System Aircraft Maintenance, and Controller - Production." Pursuant to 29 C.F.R. § 1206.4(b)(2), the one-year dismissal bar runs through August 8, 2002. Therefore, the Board is precluded from accepting the present application until August 9, 2002.
- (2) Even if 29 C.F.R. § 1206.4(b)(2) does not prohibit acceptance of the IAM's application, dismissal is required pursuant to *United Airlines, Inc.*, 28 NMB 533 (2001). The IAM's "cherry picking" the three job titles at issue is contrary to the Board's policy against fragmentation.
- (3) Post-September 11, 2001, the Planners and Controllers at issue have managerial duties and do not share a community of interest with the Mechanics and Related Employees craft or class.

United submitted a declaration from a management official in support of its argument.

IAM

The IAM contends that United's objections have no merit and should be rejected. The IAM argues as follows:

- (1) The IAM's application is not barred by 29 C.F.R. § 1206.4(b)(2) because the time bar rules do not apply to pre-docketing investigations.
- (2) The IAM's application to represent the Planners and Controllers decreases fragmentation of the Mechanics and Related Employees craft or class. *See United, above.* The Board previously determined that the three job titles at issue, as well as 15 others are properly included in the Mechanics and Related Employees craft or class at United. Therefore, the IAM's application promotes "an orderly consolidation of the craft or class."
- (3) The Planners and Controllers are not management officials. Furthermore, the Carrier makes the same arguments it made in Case No. R-6814 where the Board found that these employees were not management officials.

The IAM submitted a declaration signed by eight Planners and Controllers, a document entitled "On-Call Maintenance Provider Selection Responsibilities," and "SAMC Manager Duties and Responsibilities" in support of its argument.

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.

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

II.

The 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 shall designate who may participate as eligible voters in the event an election is required.

STATEMENT OF FACTS

I.

The Carrier provided the following job descriptions:

Planner - System Aircraft Maintenance

Contributes to the development and communication of maintenance plans for aircraft at maintenance and non-maintenance stations. . . . Monitors station workloads to help level system workloads and assign work to be accomplished on the aircraft. Manages OTS aircraft at

non-maintenance stations, communicates and coordinates required resources with Routers and the stations, and is responsible for ensuring accurate ACDATA updates. Communicates with the System Aircraft Maintenance Control (SAMC) Shift Manager and Routers regarding current maintenance and aircraft irregularities.

Controller - System Aircraft Maintenance

Has authority and responsibility for making final decisions concerning the course of action required to assure airworthy aircraft. Assists flight crews in resolving in-flight aircraft system problems. Directs maintenance activities at non-maintenance stations. Authorizes or coordinates with line engineering on line EVAs (Engineering Variation Authority) for situations not covered by UAL maintenance manuals. Contributes to the development and communication of the maintenance plans for aircraft at all stations. Monitors the health of the assigned fleet through daily fleet reviews and daily updates to the chronic equipment list.

Controller - Engine Maintenance

Has authority and responsibility for making final decisions concerning the course of action required to assure airworthy aircraft as it applies to power plants. Provides technical support to base and line maintenance. Assists flight crews in resolving in-flight aircraft system problems. Authorizes or coordinates with line engineering on line EVAs for situations not covered by UAL maintenance manuals. Monitors the status of engines for all fleets. Contributes to the development and communication of the engine maintenance plan for aircraft in the field.

II.

United's Planners and Controllers work in United's SAMC in San Francisco, CA. According to the Carrier, Controllers and Planners have access to sensitive and confidential information in SAMC. United also states that Controllers select and authorize mechanics and inspectors to repair and inspect aircraft; oversee maintenance operations at all stations that do not have on-site maintenance; and possess override decision authority over Operational Managers, Supervisors, Mechanics and Aircraft Inspectors. According to the declaration of eight Planners and Controllers, United's Planners and Controllers do not have the authority to discipline or effectively recommend discipline.

According to the declaration from Kathryn Cassley, Director System Planning, Control and Reliability Analysis and job descriptions for Planners and Controllers, United's "job grade system" begins with Grade A and progresses alphabetically. Supervisory grades start at Grade F with Maintenance Supervisors at Grade G with a salary range of \$62,700 to \$85,700. The SAMC Controllers are paid at Grade H with a salary range of \$75,500 to \$102,700.

DISCUSSION

I.

One-Year Bar

The time limits of 29 C.F.R. § 1206.4(b) do not apply to accretion applications. In *Frontier Airlines, Inc.*, 28 NMB 527 (2001) (Case No. R-6823), the IBT was certified as the representative of the Mechanics and Related Employees craft or class. Eight days after the certification, the IBT filed an application to accrete the Tool Room Attendants to the Mechanics and Related Employees craft or class. The Board found the Tool Room Attendants were already part of the Mechanics and Related Employees craft or class and dismissed the application. *Frontier Airlines, Inc.*, 29 NMB 28 (2001).

Similarly, in April, 2002, nine months after the IBT was certified as the representative of the Mechanics and Related Employees craft or class on Frontier, the IBT filed to accrete the GSE Mechanics into the Mechanics and Related Employees craft or class. The Board found that Frontier's GSE Mechanics were already covered by the certification in R-6823. *Frontier Airlines, Inc.*, 29 NMB 386 (2002).

The Board finds that the one-year bar does not apply to the IAM's application.

II.

Work-Related Community of Interest

In *United Airlines*, 28 NMB 533 (2001), the Board found that United's Planners and Controllers share a work-related community of interest with Mechanics and Related Employees. There is no evidence of any material change in circumstances since the Board's decision in *United, above*. Therefore, the only issue before the Board is whether United's Planners and Controllers are management officials.

III.

Management Officials

The Board's Representation Manual (Manual) Section 9.211 details factors to be considered in a determination of whether an individual is a management official. These factors include:

- (1) the authority to dismiss and/or discipline employees or to effectively recommend the same;
- (2) the authority to supervise;
- (3) the ability to authorize and grant overtime;
- (4) the authority to transfer and/or establish assignments;
- (5) the authority to create carrier policy; and
- (6) the authority to commit carrier funds.

The Board also considers:

- (1) whether the authority exercised is circumscribed by operating and policy manuals;
- (2) the placement of the individual in the organizational hierarchy of the carrier; and
- (3) any other relevant factors regarding the individual's duties and responsibilities.

In many cases, the Board finds that "while there are certain factors indicating some level of authority, when all factors are viewed cumulatively, the individuals at issue generally are first-line supervisors, not management officials." *Pan American World Airways, Inc.*, 5 NMB 112, 115 (1973). See also *USAir, Inc.*, 24 NMB 38 (1996) (citing *Comair*, 22 NMB 175 (1995)); *American Internat'l Airways, Inc. d/b/a Connie Kalitta Servs.*, 20 NMB 93 (1992); *Challenge Air Cargo*, 18 NMB 103 (1990); *USAir*, 17 NMB 117 (1990); *Tower Air, Inc.*, 16 NMB 338 (1989); *Northwest Airlines, Inc.*, 15 NMB 64 (1987).

The Board applied these standards in *American Airlines, Inc.*, 24 NMB 521 (1997), and determined that American's Maintenance Supervisors were management officials. The Carrier asserts that its Planners and Controllers have responsibilities similar to those of the Maintenance Supervisors in *American, above*. In that case, the Board found that Maintenance Supervisors directed and assigned work, and had the authority to discipline employees which they regularly exercised. Maintenance Supervisors evaluated Crew Chiefs, played a key role in discipline and had the authority to authorize and grant overtime. In addition, Maintenance Supervisors also regularly participated in the budget process and effectively recommended hiring decisions.

It is the Board's policy to adhere to previous determinations in the absence of any material change in circumstances. See *Trans World Airlines, Inc.* 13 NMB 196 (1986); *American Airlines*, 21 NMB 60 (1993); *Northwest Airlines, Inc.*, 22 NMB 29 (1994). In

United Airlines, Inc., 28 NMB 533 (2001), the Carrier asserted that the Controller-Engine Maintenance and the Controller-System Aircraft Maintenance are “at a very high level in the maintenance organizational hierarchy.” The Carrier also asserted that these individuals can commit funds in excess of \$100,000, and the Controller-Engine Maintenance, “can effectively recommend discipline or discharge of employees and directly supervise the work of Inspectors and Mechanics” In that case, the Board found that United “failed to provide evidence of examples that these individuals actually exercise the degree of authority alleged by the Carrier” and upheld the Investigator’s ruling that these individuals were not management officials. The Carrier reasserts the same arguments in this case.

The evidence in this case does not establish that United’s Planners and Controllers are management officials. There is no evidence that these individuals can authorize or grant overtime, discipline or effectively recommend discipline for employees, or create carrier policy. There is insufficient undisputed evidence that they can transfer and/or establish assignments, or commit carrier funds. While there are some indicia of managerial responsibilities, when the Board considers the evidence cumulatively, it finds that United’s Planners and Controllers are not management officials.

Additionally, the Carrier argues that the Planners and Controllers have been assigned additional duties and responsibilities as a result of September 11, 2001. United, however, did not present evidence of any material change in circumstances since the Board’s decision in *United, above*, in August 2001, or any other persuasive reason to warrant a finding that United’s Planners and Controllers are management officials.

CONCLUSION

The Board finds that the one-year dismissal bar of 29 C.F.R. § 1206.4(b) does not apply to the IAM’s application. The Board finds that United’s Planners and Controllers are not

management officials. These employees share a work-related community of interest with Mechanics and Related Employees and are, therefore, covered by the IAM's certification in NMB Case No. R-4546. As there is no basis for further investigation, File No. CR-6761 is converted to NMB Case No. R-6927 and dismissed.

By direction of the NATIONAL MEDIATION BOARD.

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