



NATIONAL MEDIATION BOARD

1301 K St NW, Suite 250E
Washington, DC, 20005

In the Matter of the
Application of the
**TRANSPORT WORKERS UNION OF
AMERICA**

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

involving employees of
**PRIMEFLIGHT AVIATION
SERVICES, INC.**

52 NMB No. 15

CASE NO. R-7647
(File No. CR-7244)

FINDINGS UPON INVESTIGATION –
DISMISSAL

December 11, 2024

This determination addresses the application filed by the Transport Workers Union of America (TWU) alleging a representation dispute pursuant to the Railway Labor Act (RLA), 45 U.S.C. § 152, Ninth (Section 2, Ninth),¹ among Aircraft Fuelers, employees of PrimeFlight Aviation Services, Inc. (PrimeFlight). These employees are currently unrepresented.

The TWU's application raises the question of RLA jurisdiction. For the reasons set forth below, the National Mediation Board (NMB) finds that PrimeFlight is not a carrier subject to the RLA.

¹ 45 U.S.C. § 151, *et seq.*

I. PROCEDURAL BACKGROUND

On July 23, 2023, TWU filed an application, along with authorization cards, alleging a representation dispute involving Aircraft Fuelers at PrimeFlight. The application was designated NMB File No. CR-7244.

II. ISSUE

Is PrimeFlight subject to the jurisdiction of the RLA?

III. DISCUSSION

PrimeFlight provides air carriers and airports with various services, including security, fueling, and ground handling. It is headquartered in Sugar Land, Texas and provides services internationally through a number of subsidiaries. It is not an air carrier. The applied-for employees are fuelers at the company's Orlando International Airport station.

The NMB issued its opinion in *Swissport Cargo Services*, 52 NMB 25 (2024) on November 8, 2024. In *Swissport*, the Board majority determined that RLA jurisdiction does not extend to independent companies that contract with air carriers. Because the record indicates that PrimeFlight, an independent aviation company, is not a common carrier by air and its connection to air transportation is only through its contracts for services with various air carriers, the Board finds that PrimeFlight is not a carrier within the meaning of RLA Section 201, 45 U.S.C. § 181. Therefore, the NMB finds no RLA jurisdiction in this case.

IV. CONCLUSION

For the above reasons, the NMB finds that PrimeFlight and its Aircraft Fuelers are not subject to RLA jurisdiction. The Board hereby converts this matter to NMB Case No. R-7647 and dismisses the application.

By direction of the NATIONAL MEDIATION BOARD.



Maria-Kate Dowling
General Counsel

Chairman Sweatt, dissenting.

As discussed in more detail in *Swissport*, I respectfully dissent from my colleagues in this decision. I would have applied the NMB's two-part function and control test upheld in *ABM Onsite Servs.-W, Inc. v. NLRB*, 849 F.3d 1137 (D.C. Cir. 2017) to determine whether PrimeFlight and its employees were subject to the RLA. More information is needed to determine whether PrimeFlight is subject to RLA jurisdiction under that test.

It is notable that PrimeFlight did not object and in fact provided the NMB with a list of voters. An election was not held pending the *Swissport* decision, and as such, these workers have been waiting for over a year to vote on whether or not their worksite would have representation. I am troubled by this delay in addition to the outcome of the change in derivative carrier consideration.