



NATIONAL MEDIATION BOARD
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Re: NMB File No. C-6866/Case No. R-6965
New York & Atlantic Railway

Gentlemen and Ms. DeRoche:

This determination addresses the request from the Brotherhood of Locomotive Engineers and Trainmen, a Division of the Rail Conference-International Brotherhood of Teamsters (BLET) to transfer the IBT/IBLE Rail Operating Council's (IBT/IBLE)¹ certification in Case No. R-6965 to the BLET. For

¹ The IBT/IBLE was a labor organization consisting of the International Presidents of the Brotherhood of Locomotive

the reasons discussed below, the National Mediation Board (Board) grants the request and transfers IBT/IBLE's certification in R-6965 to BLET.

BACKGROUND

In a letter dated December 23, 2003, IBT/IBLE notified the Board of the merger of the International Brotherhood of Locomotive Engineers (IBLE)² with the IBT effective January 1, 2004. On February 11, 2004, the Board notified the IBT and the IBLE that it would revise its records to reflect the change in status of the IBLE.

IBT/IBLE was certified to represent Train and Engine Service Employees on the New York & Atlantic Railway (NYA or Carrier) in Case No. R-6965 (2003). On September 30, 2004, the Board received a letter from BLET requesting a transfer of IBT/IBLE's certification for NYA Train and Engine Service Employees to BLET.

The Carrier provided a statement on October 15, 2004, stating that it did not object to the Board changing the names on the certification in R-6965.

THE MERGER OF BLE AND IBT

On February 26, 2002, the BLE Advisory Board unanimously approved a motion that allowed its Executive Committee to explore a possible merger with the IBT. On September 6, 2002, the BLE and IBT announced the appointment of four joint committees charged with the task of

Engineers (BLE) and the International Brotherhood of Teamsters (IBT) and was formed pursuant to an agreement between the BLE and the IBT to jointly organize and represent rail industry employees pending the completion of a formal merger between the two labor organizations.

² For purposes of this determination the acronyms BLE and IBLE are used interchangeably.

drafting a Merger Agreement for the two organizations, and formal merger discussions began on October 3, 2002.

In the spring of 2003, the BLE conducted a poll of its members and 78 percent favored a merger with the IBT. On July 10, 2003, the BLE Advisory Board unanimously approved the merger documents. Ballots were mailed to members on October 20, 2003. The ballots were counted and the election results were certified on December 5, 2003, by the American Arbitration Association. The results of the merger ballot were as follows: With 47 percent of the eligible voters voting, 81 percent voted in favor of merging and 19 percent voted against.

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 Brd.*, 793 F. Supp. 330 (D.D.C. 1991), *aff'd mem.*, 957 F.2d 911 (D.C. Cir. 1992), *cert. denied*, 506 U.S. 827 (1992).

In most instances, the Board grants a transfer request based upon assertions contained in the request letters. *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); *Transtar Airlines*, 14 NMB 377 (1987). The Board views an organization's decision to merge into another organization as an internal union matter and will grant requests for transfers 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, the BLE's members voted by secret ballot to merge with the IBT. Based on its investigation, the Board finds that BLE has merged with IBT. The Board's

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records are revised to reflect the transfer of the certification issued to IBT/IBLE in NMB Case No. R-6965 to BLET.

By direction of the NATIONAL MEDIATION BOARD.

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

Mary L. Johnson
General Counsel