

EMPLOYER STATUS DETERMINATION

Burgundy Champagne Railroad, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Burgundy Champagne Railroad, Inc. (BCR) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.) (RUIA).

BCR began operation of an excursion railroad between Bath and Cohocton, New York on July 4, 1994. BCR does not interchange with any railroad and does not provide any freight or switching service. Its rail equipment consists of a number of relatively old, refurbished cars, including a 40-year-old cabooses, which has been refinished inside and now contains an office and gift shop, and a 60-year-old kitchen car, which was formerly a circus elephant car. Champagne Railroad, Inc. (BA No. 2257) provides engine and crew service for BCR.

Section 1(a)(1) of the RRA defines the term "employer" to include:

(i) any express company, sleeping car company, and carrier by railroad, subject to subchapter I of chapter 105 of Title 49. [45 U.S.C. §231(a)(1)(i)].

Section 1 of the RUIA contains the same definition.

Subchapter I of chapter 105 of Title 49 provides in pertinent part that the Interstate Commerce Commission has jurisdiction over transportation by rail carrier, but does not have jurisdiction over:

the transportation of passengers or property, or the receipt, delivery, storage, or handling of property, entirely in a State . . . [49 U.S.C. §10501(b)(1)]

Since BCR's rail operations are limited to a recreational excursion service entirely within one State, it is not subject to the jurisdiction of the Interstate Commerce Commission and does not fall within the definition of a carrier employer under the RRA and the RUIA. The Board therefore finds that Burgundy Champagne Railroad, Inc. is not an employer under the RRA and the RUIA.

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