

EMPLOYER STATUS DETERMINATION

Soo Line Locomotive and Car Foremen's Association

This is the determination of the Railroad Retirement Board concerning the status of Soo Line Locomotive and Car Foremen's Association (SLL), as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.).

Information regarding SLL was provided by John Younger, Recording Secretary/Financial Secretary Treasurer of SLL. SLL was organized June 7, 1995, as an independent association which represents foremen in the locomotive and car departments of CP Rail/Soo Line Railroad, an employer under the Acts. The purpose of the organization is "to promote freedom of association for mutual welfare and advancement of our Supervisors/Foreman class in order to secure for us superior benefits and privileges from the CP Rail/Soo Line Railroad." SLL has 54 members. Membership dues are \$40.00 per month. Salaries of \$250.00 per month are paid to the President and to the Recording Secretary/Financial Secretary Treasurer of SLL. SLL has not participated in the selection of labor members of the National Railroad Adjustment Board and has not been found to be qualified to participate in the selection of labor members of the National Railroad Adjustment Board. Mr. Younger states that "It is unknown at this time if [SLL] is recognized by all other organization[s] to have this right. As stated above, [SLL] is an independent association only representing foremen on Soo Line property."

Section 1(a)(v) of the Railroad Retirement Act of 1974 provides that the term "employer" includes any railway labor organization, national in scope, which has been or may be organized in accordance with the provisions of the Railway Labor Act. Section 1(a) of the Railroad Unemployment Insurance Act contains a substantially similar definition.

Section 202.15 of the Board's regulations establishes the criteria used in determining whether an organization is a railway labor organization which is national in scope within the terms of sections 1(a)(v) and 1(a) of the Acts. Section 202.15(a) states that an organization will be presumed to be a labor organization national in scope and formed in accordance with the Railway Labor Act if that organization has a right to participate in the selection of the labor members of the National Railroad Adjustment Board. Coverage begins with the date on which a right to participate has been established. For purposes of a determination under section 202.15(a), a right of participation may be established if:

(i) the organization has in fact participated in such selection;

Soo Line Locomotive and Car Foremen's Association

(ii) the organization has been found by a three-member board appointed pursuant to section 3 "First" (f) of the Railway Labor Act [citation omitted] to be eligible to participate in such selection; or

(iii) the organization is recognized by all other eligible organizations as having the right to participate in such selection.

Based on the information provided by Mr. Younger, it is clear that SLL does not meet the criteria provided in section 202.15 of the Board's regulations for a railway labor organization national in scope in that SLL is a local independent organization which does not have the right to participate in the selection of the labor members of the National Railroad Adjustment Board.

Accordingly, it is the decision of the Board that SLL is not an employer under the Railroad Retirement Act or the Railroad Unemployment Insurance Act.

Glen L. Bower

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