

EMPLOYER STATUS DETERMINATION

Tyson Railroad, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Tyson Railroad, Inc. (BA No. 5526) (Tyson) 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).

In a decision issued on March 24, 1995, the United States Court of Appeals for the District of Columbia Circuit affirmed the decision of the Board that Tyson was a carrier employer under the RRA and the RUIA. Cheney Railroad Company, Inc. v. Railroad Retirement Board, 50 F.3d 1071 (D.C. Cir. 1995). In the Statement of Facts that Tyson included in the Brief which it filed with the Court in that case, Tyson stated that effective July 31, 1992, Tyson had discontinued rendering service and abandoned its 1.61-mile segment of track. Tyson had operated its railroad under the feeder line provisions of the Interstate Commerce Act (49 U.S.C. §10910). Because it had elected, pursuant to 49 U.S.C. §10910(g)(1), to exempt itself from most regulation by the Interstate Commerce Commission (ICC), Tyson stated that it neither sought nor obtained ICC authorization for the abandonment of its rail line. Tyson stated further in its Brief that the abandoned line was acquired by CSX Transportation (BA No.1524), which has operated the property since Tyson abandoned it.

On October 30, 1995, Mr. Fritz R. Kahn, the attorney who represented Tyson in the employer status litigation, confirmed that Tyson ceased its railroad operations and abandoned its railroad line effective July 31, 1992.

Based upon the information summarized above, the Board finds that Tyson ceased to be an employer under the RRA and the RUIA effective July 31, 1992.

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