In the Matter of CENTRAL GREYHOUND LINES, INC. *and* AMALGAMATED ASSOCIATION OF STREET, ELECTRIC RAILWAY, AND MOTOR COACH EMPLOYEES OF AMERICA (AFL)

Case No. 8–R–1338.—Decided March 15, 1944

Bowen & Bowen, by *Mr. Ivan Bowen*, of Minneapolis, Minn., for the Company.

Mr. E. L. Oliver, of Washington, D. C., for the Amalgamated.

Mr. Wayland K. Sullivan, of Cleveland, Ohio, for the Interstate.

Mr. Wallace E. Royster, of counsel to the Board.

DECISION
AND
DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by Amalgamated Association of Street, Electric Railway, and Motor Coach Employees of America (AFL), herein called the Amalgamated, alleging that a question affecting commerce had arisen concerning the representation of certain employees of Central Greyhound Lines, Inc., Cleveland, Ohio, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Louis Plost, Trial Examiner. Said hearing was held at Cleveland, Ohio, on January 18, 1944. The Company, the Amalgamated, and Interstate Motor Coach Employees Association, Inc., herein called the Interstate, appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Trial Examiner's rulings made at the hearing are free from prejudicial error and are hereby affirmed. All parties were afforded opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

Central Greyhound Lines, Inc., is a Delaware corporation with New York and Indiana subsidiaries, namely, Central Greyhound Lines, Inc., of New York, and Central Greyhound Lines, Inc., of Indiana.

The Company stipulated that for the purpose of this proceeding it may be regarded as constituting a single employer. The Company is engaged from its headquarters in Cleveland, Ohio, in transporting passengers, mail, express, and newspapers, for hire under regularly published tariffs, through Massachusetts, New York, Pennsylvania, Ohio, Indiana, Michigan, and Illinois. The consolidated gross revenues of the Company for the year ending October 31, 1943, were in excess of $9,000,000, and the Company's total consolidated assets on October 31, 1943, were in excess of $12,000,000. For the safe and regular operation of its busses, the Company maintains garages and repair shops in various cities along its routes. The Company concedes and we find that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATIONS INVOLVED

Amalgamated Association of Street, Electric Railway, and Motor Coach Employees of America is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

Interstate Motor Coach Employees Association, Inc., is an incorporated unaffiliated labor organization, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On October 12, 1943, the Amalgamated requested recognition of the Company as exclusive bargaining representative of all the Company's maintenance employees. The Company refused to extend recognition until the Amalgamated is certified as such representative by the Board.

For several years the Amalgamated has been the exclusive bargaining representative of drivers and terminal employees of the Company in a system-wide unit, and for the same period has been recognized by the Company as representative of its members among the Company's maintenance employees. The latest contract between the Company and the Amalgamated covering the employees mentioned above expired October 31, 1943, and another contract is in the process of negotiation.

The Interstate has been recognized by the Company for several years as exclusive bargaining representative of the Company's maintenance employees on the New York lines. As of December 1, 1940, the Company and the Interstate entered into a closed-shop contract covering such employees. The term of the contract was for 1 year and thereafter from year to year in the absence of notice of termina-

tion 60 days prior to any anniversary date. No such notice has been given; the Company and the Association assert that the contract is still in effect and constitutes a bar to this proceeding.

The Amalgamated contends that the Interstate contract should not be given effect so as to bar an investigation of representatives for maintenance employees along the New York lines for the reason that the Amalgamated has actually bargained for such employees with the Company without protest or exception by Interstate, and that inferentially Interstate has abandoned its claim to represent such employees. The record does not so convince us. The Interstate contract appears to be still in full force and effect and the record does not support the allegations of the Amalgamated that it has bargained for maintenance employees of the New York lines. Since, as noted above, the claim of the Amalgamated was made on October 12, 1943, 49 days before the anniversary date of the Interstate contract, we find that such claim was not timely. When neither the Company nor the Interstate gave notice of termination 60 days prior to the latest anniversary date of the Interstate contract, the contract by its terms was automatically renewed for another year and under the settled policy of the Board constitutes a bar to a present investigation of representatives pertaining to the maintenance employees on the Company's New York lines.[1]

A statement of the Field Examiner, introduced into evidence at the hearing, indicates that the Amalgamated represents a substantial number of employees among the maintenance workers of the Company.[2]

We find that a question affecting commerce has arisen concerning the representation of maintenance employees of the Company other than those employed on the New York lines within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT; THE DETERMINATION OF REPRESENTATIVES

There is no essential controversy among the parties regarding inclusions and exclusions from the bargaining unit. Actually the Amalgamated does not seek certification as bargaining representative of the maintenance employees in a separate bargaining unit. As noted above, the Amalgamated has been recognized by the Company for a period of years as exclusive bargaining representative of the company drivers and terminal employees in a system-wide unit. The Amalgam-

[1] See *Matter of Mill B, Inc., Division of Irwin & Lyons, Partners, doing business under the assumed name of Irwin & Lyons*, 40 N L R B 346

[2] The Field Examiner stated that the Amalgamated submitted application-for-membership cards bearing apparently genuine original signatures which indicate that over 65 percent of the Company's maintenance employees are members of the Amalgamated.

ated seeks here to be designated also as exclusive bargaining representative for the maintenance employees and, if successful, to include the maintenance employees in the system-wide unit it already represents.

We are of the opinion and find that the maintenance employees may appropriately constitute a part of the unit of drivers and terminal employees already represented by the Amalgamated. In the absence of any question concerning representation among the employees in the driver and terminal workers unit, we shall direct an election among the maintenance employees only. If the maintenance employees select the Amalgamated as their bargaining representative, they will have indicated their desire to be included in the unit with the drivers and terminal employees and will be a part of such unit.

Accordingly, we shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the maintenance employees of the Company, including cardex employees but excluding maintenance employees and cardex employees on the New York lines and all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action. Those eligible to vote in the election which we shall direct shall be the employees of the Company, as described above, who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction. The Regional Director is hereby authorized to conduct the election by mail, either in whole or in part.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Central Greyhound Lines, Inc., Cleveland, Ohio, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Eighth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among the maintenance employees of the Company in the group below, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily

laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election:

All maintenance employees of the Company, including cardex employees, but excluding maintenance employees and cardex employees on the New York lines and supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, to determine whether or not they desire to be represented by Amalgamated Association of Street, Electric Railway, and Motor Coach Employees of America (AFL), for the purposes of collective bargaining.

MR. JOHN M. HOUSTON took no part in the consideration of the above Decision and Direction of Election.