Bradley Flying Service, Inc. *and* Oil, Chemical and Atomic Workers International Union, AFL–CIO, Petitioner. *Case No. 1–RC–6170. May 8, 1961*

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Alvin M. Glazerman, hearing officer. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its powers in connection with this case to a three-member panel [Members Rodgers, Leedom, and Fanning].

Upon the entire record in this case, the Board finds:

1. The Employer, Bradley Flying Service, Inc., is a Connecticut corporation with its principal place of business in Windsor Locks, Connecticut. The Employer is engaged in maintaining, fueling, and storing aircraft, and in charting flying services. It repairs and overhauls aircraft, sells fuel to scheduled airlines and privately owned aircraft, and maintains hangar facilities for those who avail themselves of this service. It holds an Air Carrier Operating Certificate Number 1–1013, dated June 23, 1955, amended September 7, 1956, issued by the Civil Aeronautics Administration.[1] Under the certificate, it is authorized to operate as an air taxi between points in the continental United States, Mexico, and Canada.

The Employer does in excess of $100,000 business annually, about 95 percent of which represents revenue from the sale of goods and services other than air-taxi service. The Employer admits that more than $50,000 of its annual gross business represents the sale of goods and services to companies whose operations satisfy the direct inflow, or direct outflow, tests for assertion of the Board's jurisdiction.[2] Nonetheless, it moves for dismissal of the petition on the ground that it is a "common carrier by air engaged in interstate commerce" within the meaning of the Railway Labor Act,[3] that its operations and employees are covered by the provisions of that Act, and that this Board is therefore without jurisdiction.

On the basis of the facts set forth above, we find that the Employer's contention is without merit. On the contrary, we conclude that the Employer is not subject to the Railway Labor Act and that it is an

[1] Since the issuance of the certificate the name of this agency has been changed to Federal Aviation Agency

[2] *Siemons Mailing Service,* 122 NLRB 81.

[3] Title II of the Railway Labor Act extends the coverage of that Act to ". . . every common carrier by air engaged in interstate or foreign commerce . . . and every air pilot or other person who performs any work as an employee . of such carrier . . ."

"employer" within the meaning of Section 2(2) of the National Labor Relations Act, as amended. We therefore deny its motion to dismiss the petition. Because of the nature of the question presented here, we have in this case, as in other cases in the past,[4] requested the National Mediation Board as the agency primarily vested with jurisdiction, under the Railway Labor Act, over air carriers and having primary authority to determine its own jurisdiction, to study the record in this case and determine the applicability of the Railway Labor Act to the Employer. In the present case, we are administratively advised by the National Mediation Board, under date of March 14, 1961, that: "Based on the entire record it is the opinion of the National Mediation Board that Bradley Flying Service, Inc., does not meet the definition of a common carrier by air as set forth in Section 201 title 2 [sic] of the Railway Labor Act; consequently, there is no basis for this Board to exercise jurisdiction over the employer or its employees."

Accordingly, we find that the Employer is engaged in commerce within the meaning of the Act and that it will effectuate the policies of the Act to assert jurisdiction herein. We, therefore, assert jurisdiction herein.

2. The labor organization involved claims to represent certain employees of the Employer.

3. A question affecting commerce exists concerning the representation of employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

4. The Petitioner requests a unit of all employees excluding all certified pilots, certified mechanics, office clerical employees, guards, professional employees, and supervisors as defined in the Act. The Employer takes no position as to the composition of the unit.

The unit sought consists of six employees who perform maintenance and fueling services to scheduled airlines and an automotive mechanic who maintains equipment used in support of the above functions and who from time to time is called on to perform certain routine maintenance tasks on aircraft. These employees work under the supervision of the Employer's vice president and manager, are hourly paid, and punch a time clock. In addition, the Employer employs one certified mechanic and one certified pilot who is also a certified mechanic, both holding certifications from the Federal Aviation Agency. The Petitioner would exclude these two employees.

The "certified mechanic" and "certified pilot" are salaried, do not punch a time clock, and work without supervision, their work being

[4] See, e g, *Interior Enterprises, Inc*, 122 NLRB 1538; *Pan American World Airways, Inc, Guided Missiles Range Division*, 115 NLRB 493; *Northwest Airlines, Inc*, 47 NLRB 498.

inspected only for completion. However, the "certified mechanic" is engaged exclusively in the repair and overhauling of aircraft, while the "certified pilot" spends a major portion of his time performing these same duties and only a fraction of his time in actual piloting duties. Each frequently works with the hourly paid automotive mechanic, whom the Petitioner would include. Under these circumstances,[5] we find that, although they may possess a greater degree of skill than other employees, the "certified mechanic" and the "certified pilot" have a community of interests with the Employer's other ground service and maintenance personnel. We shall, therefore, include them in the unit, in accordance with the Board's policy of affording the same representation treatment to all employees with similar skills.[6]

Accordingly, we find that the following employees at the Employer's Windsor Locks, Connecticut, operation constitute an appropriate unit for the purposes of collective bargaining within the meaning of Section 9(c) of the Act:

All employees including the automotive mechanic, the certified pilot, and the certified mechanic but excluding office clerical and professional employees, guards, and supervisors as defined in the Act.

[Text of Direction of Election omitted from publication.]

[5] The mere difference in their manner of payment affords no basis for their exclusion from the unit. *Bergen Knitting Mills, Inc.*, 122 NLRB 801. Nor does the fact that they hold FAA certifications require a different result. See, e.g., *Whippany Paper Board Company, Inc.*, 119 NLRB 1615.

[6] See *Jones-Dabney Company, Division of Devoe & Raynolds Co.*, 116 NLRB 1556, 1558.

Grand Rapids General Motors (Fisher Body Plant #1) ***and*** **International Association of Tool Craftsmen—N.I.U.C., Petitioner.** *Case No. 7–RC–4574. May 8, 1961*

ORDER DENYING MOTION

On August 17, 1960, the Petitioner filed a petition seeking a single-plant unit of all tool and die department employees, i.e., die shop, jig and fixture, pattern shop, mechanical devices, die try-out, template department, heat treat weld shop, and apprentices, excluding all production and maintenance employees, at General Motors' Grand Rapids, Michigan, plant. On August 29, 1960, the petition was dismissed by the Regional Director. On appeal from this dismissal, the Board, on October 4, 1960, sustained the Regional Director on the ground that a single-plant unit is inappropriate in view of a history of multiplant