

Caribbean Airline Services, Inc. and Union de Tronquistas de Puerto Rico, Local 901, a/w International Brotherhood of Teamsters, AFL-CIO,¹ Petitioner. Case 24-RC-7432

April 30, 1992

DECISION AND DIRECTION OF ELECTION

BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND RAUDABAUGH

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, a hearing was held before Hearing Officer Alberto L. Valdejuli. Following the hearing, and pursuant to Section 102.67 of the National Labor Relations Board's Rules and Regulations, the case was transferred to the National Labor Relations Board for decision.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the hearing officer's rulings made at the hearing and finds that they are free from prejudicial error. They are affirmed.

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

1. Caribbean Airline Services, Inc. is a Puerto Rico corporation engaged in providing ground handling services to airlines and/or aircraft at the Luis Munoz Marin International Airport. During the 12 months preceding the hearing, a representative period, the Employer purchased and received goods valued in excess of \$50,000, directly from points located outside Puerto Rico. During the same period, the Employer received revenues in excess of \$50,000 from providing services to air carriers such as Arrow Air, Emery Worldwide, Carnival Airlines, Key Air, and Trump Air, each of which in turn received annual gross revenues in excess of \$1 million from the interstate and international transportation of mail, passengers, and/or cargo.

The Employer contends that the petition should be dismissed because it is not an "employer" within the meaning of Section 2(2) of the National Labor Relations Act. The Employer asserts that it is subject to the Railway Labor Act because it exists solely to furnish ground fleet services to airline carriers, and the employees in the petitioned-for unit are subject to sub-

stantial control by the airlines that are serviced by Employer.²

Section 2(2) of the National Labor Relations Act provides in pertinent part that the term "employer" shall not include any person subject to the Railway Labor Act. Accordingly, we requested the National Mediation Board (NMB) to determine the applicability of the Railway Labor Act to the Employer. On March 18, 1992, the NMB issued its opinion advising us that:

Carrier control over CAS operations does not rise to the requisite level of direct or indirect control in order to satisfy the second element in the NMB's two part jurisdictional test. . . . Accordingly, the NMB is of the opinion CAS's operations at Carolina's Luis Munoz International Airport are not subject to the Railway Labor Act³

On the basis of the facts set forth above, we find that the Employer is engaged in commerce within the meaning of the National Labor Relations Act and that it will effectuate the policies of the Act to assert jurisdiction.

2. The parties stipulated, and we find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

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

4. The parties stipulated, and we find, that the following employees of the Employer constitute an appropriate unit for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All service and maintenance employees, including warehousemen, employed by the Employer at its Luis Munoz International Airport at Carolina, Puerto Rico, excluding all other employees, office clerical employees, guards and supervisors as defined in the Act.

[Direction of Election omitted from publication.]

²The Railway Labor Act covers "carriers by air engaged in interstate or foreign commerce . . . and every . . . person who performs any work as an employee or subordinate official of such carrier or carriers, subject to its or their continuing authority to supervise and direct the manner of rendition of his service." § 45 U.S.C. 181 (1982).

³*Caribbean Airline Services*, 19 NMB 242, 246.

¹The name of the Petitioner has been changed to reflect the new official name of the International Union.