



**NATIONAL MEDIATION BOARD**  
WASHINGTON, D.C. 20572

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Mr. Bartos and Ms. Brumfield:

This is in response to your filings of May 15, 2019 and June 17, 2019 on behalf of the International Association of Machinists and Aerospace Workers, AFL-CIO (IAM or Organization). According to the Organization, it has been engaging in organizational activity among "Ramp" employees and Flight Attendants of Delta Airlines (Carrier). The IAM asserts that Delta has interfered with the right of its employees to choose a representative for collective bargaining purposes without "interference, influence or coercion exercised by the carrier". Citing 45 U.S.C. Section 152, Ninth, (Section 2, Ninth) of the Railway Labor Act (RLA), and Section 17.0 of the National Mediation Board's (Board or NMB) Representation Manual (Manual), the Organization requests the Board to conduct a "full investigation" and asks that "all appropriate sanctions [be] imposed once the investigation has been completed."

Delta filed responses on June 7, 2019 and June 21, 2019. The Carrier asserts that the IAM has failed to allege a representation dispute because it has not submitted a representation application supported by authorization cards. Delta argues therefore, that the Board does not have jurisdiction to conduct an investigation. The Carrier cites *Railway Labor Executives Ass'n v. NMB*, 29 F. 3d 655 (D.C. Cir. 1994) in support of its position that the Board can investigate only upon receipt of an application from a party. Additionally, Delta denies the Organization's allegations of interference.

The IAM argues that contrary to Delta's assertion, the Board does have jurisdiction over the Organization's request. The IAM acknowledges that it has not filed an application but argues that the Carrier's conduct warrants "immediate action" pursuant to Manual Section 17.0. Section 17.0 states that absent "extraordinary circumstances, the NMB will only investigate allegations of election interference when filed by the participants after the tally". The Organization cites several Board cases in which the Board conducted pre-election interference allegations.

Section 2, Ninth provides, in part, that in the event a dispute arises among carrier employees regarding representation, the Board has a duty, "upon request" of a party, "to investigate". Although the RLA does not specify the manner in which such a "request" is initiated, the Board's Rules and Manual do. Manual Section 1.01-2 defines a representation matter as "an

investigation initiated by the filing of an application under Section 2, Ninth, of the RLA". Manual Section 1.01-3 cites the Board's Rules at 29 CFR.1203.2 for the process to file an application. 29 CFR 1203.2 provides that applications for the Board's services under Section 2, Ninth are to be filed on Form NMB-3 and must be accompanied by signed authorization cards.

In this instance, the Organization has not filed an application pursuant to the Board's Rules and the Board's Manual. All of the cases cited by the IAM were initiated by the filing of an application and supported by authorization cards. Without a properly filed application, the Board is unable to investigate the Organization's allegations. Should the Organization file an application supported by authorization cards and request a pre-election interference investigation, the NMB would consider that request.

Sincerely,



Mary Johnson  
General Counsel

Copy: Jeffery D. Wall