

**TNT Skypack, Inc. and Local 851, International Brotherhood of Teamsters, AFL-CIO, Petitioner.** Case 29-RC-7885

May 17, 1993

DECISION AND ORDER

BY MEMBERS DEVANEY, OVIATT, AND  
RAUDABAUGH

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Emily DeSa. 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 in Washington, D.C., for determination of whether it has jurisdiction over the Employer.

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

Upon the record in this case, we find that TNT Skypack, Inc., a Delaware corporation, is engaged in the transportation of materials throughout the United States and international locations.

The Employer asserted that it might be subject to the Railway Labor Act and, therefore, outside the NLRB's jurisdiction. Accordingly, we requested an

opinion from the National Mediation Board (NMB) on the jurisdictional question. The NMB has advised us that:

[W]hile the Railway Labor Act applies to airlines contracted by Skypack to ship material, it does not follow that the Act applies to Skypack because it contracts with airlines, as a shipper, to transport material. After consideration of all the evidence, the Board finds Skypack to be an independent entity not under direct or indirect control of a carrier. . . .

Skypack's operations at JFK International Airport are not subject to the Railway Labor Act.<sup>1</sup>

In consideration of the decision of the National Mediation Board, we find that the Employer is an "employer" within the meaning of Section 2(2) of the National Labor Relations Act.

We will remand the proceedings to the Regional Director for a determination of the remaining issues.

ORDER

IT IS ORDERED that the proceeding is remanded to the Regional Director for Region 29 for processing consistent with this Decision and Order.

<sup>1</sup> *TNT Skypack, Inc.*, 20 NMB 153, 160 (1993).