The Advocate

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Our New Work Rules and AFA protection

Have you ever been confronted by a smug Association of Flight Attendants ("AFA") activist who says "If you had voted yes, the AFA would have protected us from these changes?" Next time that happens, ask the activist if he or she is uninformed, or if he or she is intentionally misleading you.

Before we get started, we would like to point out that we do not like many of the changes, but to say a union would have prevented these changes is clearly false. Read along to find out why.

Short Answer

If we had elected the AFA in February of 2002, it could not have prevented the recent changes to our work rules and benefits. The Railway Labor Act ("RLA") and court decisions allow Delta to make unilateral changes to work rules and benefits between certification of a union and the first contract.

Not Short Answer

Delta flight attendants are covered by the Railway Labor Act. The RLA governs the interaction between railway and airline employees and their employers. From the time employees decide that they want to belong to a union and begin to campaign through contract negotiations, the RLA governs this interaction.

When negotiating a contract, the RLA imposes a duty to maintain the "status quo." For employers, the status quo is a requirement that the carrier maintain existing wages and working conditions during negotiations. The duty to maintain the status quo also imposes some duties on a union, as our pilots discovered when they were admonished by the courts for their behavior during their Contract 2000 negotiations, but we digress.

Some activists will tell you that Delta would have had to maintain the status quo if we had elected the AFA. The passion behind their words and their argument sounds pretty convincing. Well, pretty convincing until you look into the facts and the law. When you examine the law, it leads to the inescapable conclusion that those activists are wrong.

The first contract is not an easy thing to attain. Typically, a recently unionized group can look forward to three or more years of negotiation before signing a first contract. The ballots in the last AFA campaign at Delta were counted in February, 2002. Based on past AFA negotiation results, we would be looking at our first contract in 2005.

Our activist coworkers would have you believe that during this time the company would have its hands tied by the status quo provision of the RLA, and Delta could not change our working conditions. They are wrong.

Our activists are confused about when status quo protection is applicable. **Status quo is only meant to apply where there is already a collective bargaining agreement in place. In our case, we had no prior contract, so status quo protection is not applicable**. Therefore, Delta would have had the right to unilaterally change our benefits and working conditions while we were waiting for our first contract. The recent changes still would have been implemented by Delta. The AFA would have had no legal standing to stop their implementation.

Our answer is based on a string of court cases that support a company's right to modify the status quo during negotiations. In *Aircraft Mechanics v. Atlantic Coast Airlines, Inc.*, the court said that the RLA does not obligate a carrier to maintain existing wages and working conditions during negotiations with a newly certified union for an initial collective bargaining agreement.

In *Atlas Air, Inc. v. Air Line Pilots,* the court reinforced a carrier's right to make unilateral changes in status quo working conditions where there is no collective bargaining agreement. (Note: For those of you who actually want to read the case, you will find that the court affirmed the right of a company to make unilateral changes. However, Atlas Air made the change to a profit sharing plan solely to punish its pilots for electing a union. The court did not allow this. The concept that you should walk away with is **a company can change benefits unilaterally if it is for business purposes. If a company is changing benefits to punish or try to coerce a group not to elect a union, the courts will not allow it).**

Based on these cases, you will see that the law supports Delta's right to change working conditions before a first contract. No matter what the activist may tell you to the contrary, that is the state of the law.

However, you do not have to believe us. You can ask Nancy Lenk, Director of Organizing for the AFA. She gave the same answer on January 2, 2002 in a JoinTogether message.

Resources

The National Mediation Board	http://www.nmb.gov
Deltafa.org	http://www.deltafa.org
Nancy Lenk	http://www.deltafa.org/nancy_lenk_jt_recant.htm
Nolo Press Nolo is a California publisher of books that help the layman understand the legal process, laws and legal research.	http://www.nolo.com

Aircraft Mechanics v. Atlantic Coast Airlines, Inc.,
55 F3d90, 149LRRM 2404 (CA 2, 1995)

Atlas Air, Inc., v. Air Line Pilots,
232 F3d 218 (CA DC, 2000)

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