

OCT 09 2009

**EMPLOYER STATUS DETERMINATION****Enid Central Railway, Inc.**

BA # 2856

This is a determination of the Railroad Retirement Board concerning the continuing status of Enid Central Railway, Inc. (Enid) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.). Enid (B.A. No. 2856) has been an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act since January 1, 1982.

Information in the file indicates that Enid received Interstate Commerce Commission (ICC) authority to operate as a railroad in Order No. 1473, decided December 30, 1981. In Legal Opinion L-82-67, Enid was found to be an employer covered by the Acts as of January 1, 1982, the date it began operations and first hired employees.

In a letter dated April 27, 1983, Ms. Esther S. Bergman, Treasurer of Enid, advised the agency that "all operations of Enid Central Railway ceased as of midnight on February 28, 1983, and Enid Central Railway last had employees on March 31, 1983". In addition, the DC-1, "Employer's Quarterly or Annual Report of Contributions Under the Railroad Unemployment Insurance Act" for the quarter ending March 31, 1983, states "This is the final return for Enid Central Railway, Inc. It last had employees on March 31, 1983". In a letter dated January 10, 1984, Ms. Bergman, responding to a letter from the then-Director of Compensation and Certification, stated that Enid did not own any equipment or track, and "although this corporation has not yet been formally dissolved, it is not now and will never actively engage in any business in the future". The file indicates that no action (e.g., an investigation into the continuing status of Enid) was ever taken following either Ms. Bergman's letter of January 10, 1984, or the filing of the DC-1. No information was ever sent informing the Board of a date when Enid was dissolved.

Recent research of the Oklahoma bankruptcy courts by the Office of General Counsel did not reveal any records for Enid. The agency librarian researched the Oklahoma Secretary of State's records and found information indicating that Enid's corporate status has been suspended since February 13, 1984.

Section 202.11 (20 CFR 202.11) of the Board's regulations states that:

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

As indicated above, information available indicates that Enid became an employer under the Acts effective January 1, 1982. The research by the Division of Audit and Compliance, Office of General Counsel, and the agency librarian, as well as information contained in Enid's file, indicates that Enid ceased to be an operational railroad in March 1983. The evidence of record establishes that Enid no longer possesses the characteristics of a railroad carrier employer. The Board therefore finds that effective March 31, 1983, the date it last had employees, Enid Central Railway, Inc. ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.



FOR THE BOARD

Beatrice Ezerski

Secretary to the Board