

EMPLOYER STATUS DETERMINATION

Durham Transport, Inc.

This is the determination of the Railroad Retirement Board concerning the status of Durham Transport, Inc. (DTI) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.) (RUIA).

Although DTI began as a non-carrier, upon its acquisition and operation of 12 miles of rail line within the Raritan Center Industrial Park, it became a class III rail carrier. See Interstate Commerce Commission (ICC) Finance Docket No. 31917. According to information provided in December 1992 and November 1994, by Mr. G. D. Crane, President of DTI, DTI interchanges with Conrail. Mr. Crane describes DTI's operations as "switching service at Raritan Industrial Park". DTI began operations on August 1, 1994, and has four employees who were first compensated on October 29, 1994.

Section 1(a)(1) of the Railroad Retirement Act (RRA) (45 U.S.C. § 231(a)(1)), insofar as relevant here, defines a covered employer as:

- (i) any express company, sleeping-car company, and carrier by railroad, subject to subchapter I of chapter 105 of Title 49;

Section 1(a) of the Railroad Unemployment Insurance Act (RUIA) (45 U.S.C. §§ 351(a)) contains a substantially similar definition.

The evidence establishes that DTI is a carrier by rail engaged in the transportation of persons or property in interstate commerce. Accordingly, it is determined that Durham Transport, Inc. became a rail carrier employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective August 1, 1994, the date it began operations.

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