

**Cochise Airlines and International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Local 310, Petitioner.** Case 28-RC-2722

November 4, 1974

**DECISION AND ORDER**

BY CHAIRMAN MILLER AND MEMBERS JENKINS AND KENNEDY

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Harroliese Brown on April 30, 1974. The Regional Director for Region 28 then transferred the case to the Board for decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this case, the Board finds:

The Employer is an Arizona corporation with its principal place of business at the Tucson International Airport in Arizona. It is a scheduled passenger and freight air carrier operating an average of 40 flights a day, with 4 airplanes, all within the State of Arizona. Cochise also provides a charter flight service intrastate and interstate. These interstate charters are an average of no more than 400 miles in distance from Phoenix, and the Employer's counsel asserts that these flights represent less than 2 percent of the Employer's gross income. The Employer carries no United States mail.

Cochise has interline arrangements with air carriers engaged in interstate commerce. Approximately 60 percent of the passengers carried by the Employer

are involved in these interline arrangements. At present Cochise has a contract with American Air Lines to fulfill American's obligations under the Civil Aeronautics Board to provide air carrier service from Phoenix to Douglas, Arizona. This contract will expire in October 1974.

Section 2(2) of the Act provides, in pertinent part, that the term "employer" as used in the National Labor Relations Act shall not include any person subject to the Railway Labor Act.

Accordingly, because of the nature of the jurisdictional question presented here, we requested the National Mediation Board to study the record in this case and determine the applicability of the Railway Labor Act to the Employer. In reply, we were administratively advised by the National Mediation Board as follows:

A review of the record materials submitted with your request, and independent research by the National Mediation Board, confirms that Cochise Airlines engages in regular interstate air common carriage by providing scheduled, charter and substitute air carrier transportation services. It is also noted that a very substantial percentage (60%) of Cochise's passengers fly on interline tickets.

Therefore, the National Mediation Board has concluded that Cochise Airlines' operations fall within the jurisdictional scope of Section 201 of Title II of the Railway Labor Act.

In view of the foregoing, we shall dismiss the petition.

**ORDER**

It is hereby ordered that the petition in Case 28-RC-2722 be, and it hereby is, dismissed.