

AAT Airlines, Inc., d/b/a Air Sunshine¹ and Teamsters Local 769, affiliated with the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Petitioner. Case 12-RC-5011

August 27, 1976

DECISION AND ORDER

**BY CHAIRMAN MURPHY AND MEMBERS FANNING
AND PENELLO**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before Hearing Officer Carl A. Peterson. The Regional Director for Region 12 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 a Florida corporation operating a regularly scheduled flight service between Miami, Marathon, and Key West, Florida. In addition, during certain seasons of the year it operates between Tampa and Key West. Its fleet consists of four airplanes operated by 15 pilots. It has interline agree-

ments with the major airlines. Fifty-four percent of its gross annual revenues of \$850,000 are derived from interlining with other airlines. Employer provides the only available air service between Miami and Key West. While National Airlines also has a license to supply a service between Miami and Key West, National has an agreement with the Employer, approved by the Civil Aeronautics Board, whereby the Employer substitutes its service for that of National.

Section 2(2) of the Act provides in pertinent part that the term "employer" as used in the National Labor Relations Act should 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 to determine the applicability of the Railway Labor Act to the Employer. In reply, we were administratively advised by the National Mediation Board that based on the above facts:

. . . the National Mediation Board is of the opinion that AAT Airlines, Inc. d/b/a Air Sunshine meets the definition of a common carrier by air set forth in Title II, Section 201 of the Railway Labor Act, and that there is a sufficient basis for this Board to assert jurisdiction.

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

ORDER

It is hereby ordered that the petition in Case 12-RC-5011 be, and it hereby is, dismissed.

¹ The name of the Employer appears as amended at the hearing