

**IN THE MATTER OF MEDIATION/ARBITRATION
SUMMARY OF BENCH DECISION**

SOUTHWEST AIRLINES CO.	§	
	§	Grievance No. HNL-R-0100/22
and	§	
	§	Grievant: [REDACTED]
TRANSPORT WORKERS UNION, LOCAL 555	§	
	§	

**William L. McKee, Ph.D.
Arbitrator**

REPRESENTATIVES

For the Union:

Abilio Villaverde
TWU District Representative

For the Company:

Phillip Stachowski
Labor Manager

DATE OF HEARING

March 23, 2022

PLACE OF HEARING

Dallas, Texas

I. STIPULATED ISSUE

Was the Grievant disciplined for just cause? If not, what is the appropriate remedy?

II. BACKGROUND

Grievant [REDACTED] is a 32-year employee at Southwest Airlines who works as a Ramp Agent at the Honolulu, Hawaii, station (HNL). On January 5, 2022, he sent an email to the Station Manager, Christina Leilua, with copies to co-workers and Union representative. Managers found the email message to be “unprofessional, inappropriate, demeaning, and disrespectful.” An

investigation ensued, resulting in the Company's issuance of a Letter of Instruction, the lowest level of disciplinary action specified in the parties' Collective Bargaining Agreement (CBA).

The message in dispute was a response he made in an email message string that he started on January 5, 2022. In his initial message, he pointed out a safety concern to Ms. Leilua in reference to what he alleged was the Station's failure to notify employees of their possible exposure to Station employees who tested positive for Covid 19. Two management witnesses testified that the Company found the Grievant's original message to be professional and proper. They found significant problems, however, with his reply message to Ms. Leilua, which stated in relevant part:

If you are a leader you need to be required to do the right thing by your employees[.] that says everything we need to know about how you truly care about the Safety of your workers [in] the HNL Station... Christina you are responsible for the Safety of all HNL employees in this situation. If you're not doing everything you can to create a Safe Working Environment for the employees then maybe you should step down from you position and let another Leader step in that takes the Safety & Health of employees seriously.

He broadcast these messages widely to ramp workers and managers on his shift.

Station Manager Leilua raised the situation with Labor Manager Stachowski and Assistant Station Manager Alex Vasquez. Following an investigation conducted by Stachowski and Vasquez and without the involvement of Leilua, Stachowski and Vasquez decided to issue Mr. Gibson a Letter of Instruction, the lowest disciplinary step available under the CBA. In the Letter of Instruction, Assistant Station Manager Vasquez wrote, in relevant part,

On January 5, 2022, you sent an email to Station Leadership and carbon copied the HNL Ramp Agents and Union Rep. Alan Hollingsworth. The language and tone of the email towards Leadership were unprofessional, inappropriate, demeaning, and disrespectful. Such conduct is not consistent with the policies and expectations of Southwest Airlines. Therefore, this behavior is unacceptable and is in violation of the Southwest Airlines GroundOperations Basic Principles of Conduct ...

2. An employee on duty and in uniform reflects the Southwest Airlines attitude to our customer on a personal basis. It is imperative that you remember that your appearance, attitude, and conduct, whether on or off duty, maybe a reflection on Southwest Airlines, and that you act accordingly.
4. Complete coordination with Coworkers and Supervisors is required to provide harmonious working conditions.
27. Fighting, abusive and disrespectful behavior to a fellow Southwest Airlines Employee or Customer
39. Failure to comply with the Email and Internet Use Policy

The Union argues that the Grievant was expressing his protected opinions as a whistleblower who was acting in the interests of all employees and travelers at the Station. With respect to the above Basic Principles of Conduct, the Union's response may be summarized as follows:

- 2 – A whistleblower engages in protected activity when attempting to point out unsafe workplace and public conditions at the Station.
- 4 – The Grievant was attempting to alert his coworkers of their rights during the Covid pandemic to insist upon reasonable safety measures;
- 27 – What he said was factual and not unprofessional, inappropriate, demeaning, and disrespectful; and
- 39 – No one, including Ms. Leilua, said she or he was offended.

III. ANALYSIS

It is impossible to know how each recipient of Mr. [REDACTED]'s email message personally interpreted the transmission in question, but this situation cannot properly be characterized as “no victim, no foul.” In particular, negative and disrespectful comments directed publicly at a leader have the potential to undermine respect for that person and the leadership process. A work environment is damaged by such conduct. Southwest Airline's Basic Principles of Conduct apply to all employees, but only the Union has the right to speak for its members – except under circumstances whereby whistleblower protection might apply by legal statute. The record does not include anything about the requirements for whistleblower status.

Based on the evidence presented, the Grievant enjoyed none of the protections, if any in this situation, that might accrue to a Union representative or a whistleblower. The email message in question did not conform to the requirements of Southwest Airline's Basic Principles of Conduct

IV. AWARD

The Grievance is denied.

March 25, 2022

William L. McKee, Ph.D.
Arbitrator