

**MEDIATION/ARBITRATION PANEL
SUMMARY OF BENCH DECISION**

SOUTHWEST AIRLINES CO.

and

**TRANSPORT WORKERS UNION,
LOCAL 555**

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Grievance No. LAS-0-4687/19

Grievant: [REDACTED]

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

REPRESENTATIVES

For the Union:

Bryant Heard
Alternate District 7 Representative

For the Company:

Steve Leatham
Manager, General Counsel

DATE OF HEARING

March 4, 2020

PLACE OF HEARING

Dallas, Texas

I. ISSUE

Whether the Company had just cause on December 10, 2019, to issue the Grievant a Letter of Instruction, and, if not, what is the appropriate remedy?

II. BACKGROUND

Grievant [REDACTED] is a 21-year employee who works as an Operations Agent at the Las Vegas, Nevada, station (LAS). On November 12, 2019, she read a printed flyer promoting a new employee initiative entitled “Spotlight on Hospitality.” The initiative involved the selection of a monthly “Hospitality King and Queen” from those LAS Operations and Customer Service Agents nominated by leaders who observe them giving “Outrageous Customer Service.” [REDACTED] [REDACTED] logged into the station’s email listserv on a Company portal, and saw a comment criticizing the initiative written by a station employee.

She decided to add her opinion and sent out the following message that went to over 400 station employees and managers:

I was taught if you don’t have anything good to say, you shouldn’t say anything at all.....HOWEVER, as most people know I usually speak up. And in this case, “This is a totally, childish, ***** idea. Is this what Managers spend time away from the WORK force discussion? No wonder this company is going downhill SO FAST. I’ve been with this company over twenty years. At one time I was so proud to be a part of a GREAT family. EVERYONE gave 100 percent because we ALL felt 100 percent appreciated. Now the company does everything they can to cause separation and discord. People who do nothing special are recognized they’re the teachers (Mangers) pets. And the rest of us are CARELESS, RECKLESS, AND NEGLIGENT for being human. You want to have a contest? Let’s try this. Put a team of your BEST managers together and put them up against and group of Ops agents, Ramp agents or Customer Service agents. Let that group of Managers work flights all day. By themselves based on their knowledge of the operation. OOPS, that’s right. I forgot. They don’t know how.

She also included an emoticon of dancing “minions” at the bottom of her message.

A fact-finding meeting was held on December 3, 2019. Following that meeting, the Company issued the Grievant a Letter of Instruction, the lowest disciplinary step. In the Letter, LAS Ground Operations Manager Josie Kirtley wrote,

This behavior is unacceptable, and is in violation of the Southwest Airlines Ground Operations Basic Principles of Conduct, including but not limited to the following:

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 has the right to express her opinion. With respect to the above Basic Principles of Conduct, the Union's response may be summarized as follows:

- 4 – She was not aware of the identity of all the email's recipients;
- 27 – What she said was not abusive or disrespectful; and
- 39 – Other employees made similar comments and were not disciplined.

III. ANALYSIS

It is noteworthy that the Basic Principles of Conduct do not mention insubordination. Instead, the Principles prohibit abuse and disrespect directed at all Company employees and customers. Freedom of speech is a protected constitutional right of citizens to speak out against their government, but the U. S. Supreme Court has ruled that it does not apply to the private sector workplace. *Hudgens v. NLRB*, 96 S.Ct. 1029. While a few other bargaining unit members publicly criticized the "Spotlight on Hospitality" initiative, their comments were not as personal in nature. Grievant [REDACTED] crossed over the line by including language and emoticons in her message that both directly and indirectly demeaned supervisors as childish, shallow, and incapable. [REDACTED] and other LAS employees who testified are disappointed about what they see as a decline in morale at the station, but they need to find a suitable means of expressing their concerns.

IV. AWARD

Based on the above, the Grievance is denied.



William L. McKee, Ph.D.
Arbitrator

March 6, 2020

