

IN THE MATTER OF )  
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)  
SOUTHWEST AIRLINES CO. )  
)  
)  
and )  
)  
TRANSPORT WORKERS UNION OF )  
AMERICA, AFL-CIO, LOCAL 555 )

Case No. PHX-R-1004/19

Med-arb

Before Matthew M. Franckiewicz, Arbitrator

### Discussion

Grievant [REDACTED] was issued a Letter of Instruction in connection with his interaction with Phoenix Ground Operations Manager Monica LaVallee on March 19, 2019. Those present who testified had somewhat different recollections, and the discussion below reflects my factual findings.

In the context of presenting a complaint on behalf of employee [REDACTED] that [REDACTED] had been denied a contractual lunch (see Article Six Section One B of the collective bargaining agreement), [REDACTED] spoke loudly, interrupting LaVallee and speaking over her, and advanced into LaVallee's personal space, pointing his finger at LaVallee's face. At the closest point, [REDACTED] finger was probably within one foot of LaVallee's face, but there was no physical contact. No one timed the incident, but it seems to have been fairly brief.

In addition to the lack of physical contact, the following did not occur. There was no profanity, no verbal threats, and no personal invective. Three additional considerations seem of significance to me. First, in many years of service as a Union Representative, [REDACTED] has not previously been disciplined for conduct in this context. Second, in their written statements within a few days of the incident, none of the three Leadership Representatives present characterized [REDACTED] conduct as "threatening." In her testimony and in her statement LaVallee said that she felt "uncomfortable." Third, in his statement Alex Millsap recalls "Monica calmly asks him to remove his finger from her face to which he does, but is still berating her with the same points." Thus when asked to de-escalate the situation, [REDACTED] complied.

American labor law recognizes that when agents for Labor and Management meet in their representational capacities, they do so on an equal footing, and that their interactions will sometimes be contentious, loud, vigorous, heated, combative and passionate. Their dealings are not expected to be conducted with the decorum of an ice cream social, and leeway is necessary for conduct that might be seen as inappropriate in another context. The operative word is leeway, however, and not immunity or exemption. There is a line beyond which conduct need not be tolerated and will support the imposition of discipline.

Under the current circumstances, though, I find that [REDACTED] did not cross that line. He did not engage in threats or physical contact, and when requested to stop pointing his finger, he did so. I conclude that his actions did not constitute misconduct warranting even the lowest level of discipline, and that the grievance therefore should be sustained.

## Award

The grievance is sustained. The Company shall remove the Letter of Instruction dated April 3, 2019 from the Grievant's file.

Issued September 14, 2019

Matthew M. Franchewing