

ARBITRATOR'S OPINION AND AWARD

In the Matter of Arbitration Between:

October 16, 2016

SOUTHWEST AIRLINES COMPANY

and

TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO  
Local 555

Grievance: DAL-O-2929-/15 (Agent X–Discipline)

Before

Elizabeth Neumeier, Arbitrator

Representing:

The Company: John Brophy, Manager of Labor Relations, Southwest Airlines Co.

The Union: Representative X TWU, Local 555

Statement of the Award: The grievance is sustained. The Letter of Warning and all references to it will be removed from the Grievant's file. In accordance with Article Twenty, Section One, Paragraph C, the costs of the arbitration shall be borne by the Company.

## BACKGROUND

Southwest Airlines Company (Company or Southwest) and the Transport Workers Union Local 555 (Union) are parties to a collective bargaining agreement (CBA) effective July 1, 2008 through June 30, 2011, and continuing through the times relevant to this grievance. In this case the Union protests that the Grievant was given a Letter of Warning without just cause as is required by Article Twenty, Section One, Paragraph L-14.

The Grievant has worked for Southwest for 14 years and at the time of this discipline was an Operations Agent at the Dallas (DAL) station. She has no discipline in her file. On November 8, 2015, during part of her shift, the Grievant was working flight 2321 to LaGuardia (LGA), out of gate 7.<sup>1</sup> Agent Y was working flight 5947 at neighboring gate 9. Gates 7 and 9 share a customer service podium. Behind the podium is a recycling bin where agents deposit boarding cards and security documents from standby passengers from both gates. Customer C, an elderly man, flies on Southwest Airlines from DAL to Lubbock (LBB) every Sunday. On November 8 he intended to fly to LBB on flight 5947, but was misboarded and ended up on flight 2321 to LGA.

The Company learned of this incident November 8 and the Grievant was given a notice of fact-finding. On December 2, 2015, the Grievant received the following results of fact-finding:

A fact-finding was held on Monday, November 23, 2015 to discuss your allegedly failing to scan a boarding pass for flight 2321 DAL/LGA on Sunday November 8, 2015. Present at this meeting were you, TWU Representatives A and B and myself.

On Sunday, November 8, 2015, you worked flight 2321. Customer [C] was misboarded on flight 2321 to LGA when he was confirmed on flight 5947 to LBB. After completing the investigation in this matter, we have concluded that this is unacceptable, and is in violation of the Southwest Airlines Ground Operations Basic Principles of Conduct, including, but not limited to, the following:

14. Performing your job in a careless, negligent, or unsatisfactory manner.
28. Failure to comply with safety rules or regulations.
32. Each Employee is expected to be familiar with and adhere

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<sup>1</sup> All dates are 2015, except as otherwise indicated.

to all federal security requirements and all Company policies and procedures. Any failure to comply with the security procedures will be grounds for disciplinary action. With regard to certain security violations, governing bodies of airport security (FAA, DOT, TSA, etc.) may impose penalties. Southwest Airlines has the right to assess appropriate discipline outside of these penalties.

Based on the above and because of your actions, this letter will serve as a Letter of Warning. The behavior that you have displayed will not be tolerated. Any further violations of this nature may result in discipline, up to and including termination. If you are unclear as to what is expected of you, or if there is anything we can do to assist you, please do not hesitate to contact a Supervisor or Manager. [JX 2, pg. 11.]

On December 2, the Union filed the instant grievance protesting that the Grievant “received excessive discipline for allegedly failing to scan a boarding pass resulting in passenger boarding the wrong flight.” The remedy or settlement sought was “Remove letter of warning from grievant’s file and make whole in every way.” The grievance was denied by the Company and, after the System Board deadlocked on March 29, 2016, the Union appealed the grievance to arbitration. Both parties agree that the instant case is properly before the undersigned arbitrator for final decision.

The Ground Operations Manual contains the following, in relevant part:

**6.2.5.1 Boarding Procedures**

**Revised: 11/04/2015**

*[14 CFR Part 121.391] [14 CFR Part 121.394]*

**WARNING: During the boarding process, the engines must be shut down and the forward entry door must remain open.**

\* \* \*

**Boarding Process**

The following procedure is completed by an Operations Agent:

1. Verbally confirm with the “A” Flight Attendant that...
2. Communicate with the “A” Flight Attendant when general boarding begins...
3. Make appropriate announcements regarding preboarding

and boarding. Refer to...

4. Unlock the Gate Reader screen and position the screen for scanning.
5. Use the Gate Reader to scan each Customer's boarding pass individually. If the boarding pass cannot be scanned, board the Customer manually in the Gate Reader. If the Customer requests the boarding pass receipt, separate it from the boarding pass and give it to the Customer.

**Note:** Each boarding pass must be scanned as the Customer boards the aircraft. It is not acceptable to collect several boarding passes and scan them after Customers have boarded the flight.

6. Board preboarding Customers, ensuring that Customers with disabilities preboard first.

\* \* \*

7. Board Business Select Customers, general boarding...
8. Verify all "Check for Ticket," "Further Screening," and "Passenger Has Already Boarded" Gate Reader prompts. All error messages must be cleared accordingly.
  - If the Gate Reader displays "Check for Ticket," ensure that a ticket is stapled to the back of the boarding pass, and that the ticket has been stamped "USED." If a ticket is not attached or the ticket is not stamped "USED," press Cancel, and refer the Customer to the Gate Agent.
  - If the Gate Reader displays "Further Screening," ensure that...
  - If the Gate Reader displays "Passenger has already boarded," the Operations Agent must take steps to resolve the error to prevent more than one person boarding using the same boarding pass. Check scanned boarding passes for same name. If names are the same, communicate to Gate Agent, send the Customer to the Gate Agent, and continue to board the flight. Refer to the "*Passenger Has Already Boarded*" *Error Message Procedure* job aid for more information.
9. Verify the origin/destination cities in the travel date on the Pet Carrier tag...

10. Ensure that the appropriate Customers have Boarding Verification Documents (BVDs). If no BVD is presented, refer the Customer to the Gate Agent.
11. Reconcile the flight using the Gate Reader.
  - If all issued boarding passes have been received, there is no reconciliation issue.
  - If applicable, verify the through count with the Gate Agent.
  - If applicable, print the Load Bags List to give to the Ramp Agent for reconciliation.
  - If a boarding pass is missing, access the Missing Boarding Passes List and make announcements to attempt to locate the missing Customer.
12. Make the final boarding announcements. Board any remaining Customers, scanning their boarding passes individually as they board the aircraft.
13. Advise the “A” Flight Attendant that the last Customer has boarded. [CX 10, pgs. 1-3.]

The Grievant’s Training Transcript reflects that she was most recently trained and tested on these policies on February 28. (CX 9, pg. 4.)

The Company offered testimony from Agent D, customer service agent, Patricia Mercado, above the wing supervisor, Scott Schooling, customer service manager, Peter Guarini, senior specialist-ground operations planning, and Trudy Christensen, senior manager of Labor Relations.

The Union offered testimony from the Grievant, operations agents Agent Y, Agent A, Agent B, Agent C, and Agent E, district representative X, and flight attendant F.

Customer service agent D testified that on November 8 he was working curbside relief and, while at the lower curbside, Customer C walked up to check in. CSA D said that, when he looked in Customer C’s reservations, there was no itinerary and he was not able to print out boarding passes. (CX 1, pgs. 1-2.) He made a new reservation on flight 5947, leaving DAL at 7:40 A.M. and arriving in LBB at 8:50 A.M.. The CIRRUS record shows that he printed the boarding pass at 5:47 A.M. and checked him in for the flight. The record also shows “Pax Un-Check” under “Activity Type” at 7:37 A.M., because Customer C’s boarding pass was deleted when he did not show up for the flight. (CX 1, pg. 2.) CSA D, referring to the flight history for flight 2321, DAL-LGA, testified that the first boarding pass issued that day was at a kiosk, at 4:50 A.M., and a passenger checked in online at 5:12 A.M.. He identified other employees who checked in passengers for that flight, such as skycap A who checked in a passenger at the upper curbside at 5:21 A.M., skycap B, who checked in a passenger at 5:29 A.M.,

and customer service agent CSA E, who checked in a passenger at 5:32 A.M. at the full service ticket counter. CSA D testified that there are no kiosks at the lower curbside position and no agent checked in any LGA-bound customers for flight 2321 at that position. (CX 2, pg. 11-12-13, CX 3.)

On cross examination, CSA D said that he did not know where Customer C went, whether he lost his boarding card or why his reservation had no itinerary. If a passenger loses a boarding card they find an agent to reprint it.

Supervisor Mercado was working as above the wing sup for zone two, gates six through 10 on November 8. At approximately 10:50 A.M. she received a telephone call from the wing sup at LaGuardia, Marco McGaw, who told her he had a passenger who was supposed to be in LBB. He submitted a SOPI with the following Narrative:

Passenger Mr. [C] PNR ABCDE was incorrectly boarded to the wrong destination. Mr. [C] was scheduled to fly to LBB from DAL departing at 740am but instead ended up in LGA from DAL off flight 2321. [CX 4.]

She said that she immediately went to the gate, 7 to 9, and pulled original boarding passes from the recycling bin behind the customer service desk. She found the boarding passes for flight 2321, including Customer C's boarding pass, among the preboard boarding passes. His boarding pass was for flight 5947 to LBB at 7:40 A.M.. (CX 5.) She gave the boarding pass to manager Scott Schooling and brought the Grievant to the office for some questions. Mercado asked the Grievant to complete a SOPI, and she provided the following Narrative:

I was asked to write a sopi report due to customer went to LGA not LBB. CSS Deb Gray received a phone call from LGA regarding a pax that was in LGA and should have flown to LBB not LGA. However, Agent from LGA did not have the name of the Customer and told that he would call back because the CSS in LGA had the information but walked away. Deb never received another call from LGA to try to research and all that we could find was this [C] who was not boarded on his flight to LBB and was not showing on Flt 2321 and my passenger count was not incorrect. [CX 6.]

On cross examination, Mercado testified that passengers sometimes are given the wrong boarding cards. If Customer C had been given the wrong card, he would have had access to the LGA plane, and the Gate Reader would count him on the flight. She did not know who put the boarding cards in the trash can.

Customer service manager Schooling was the only manager on duty upstairs on the concourse on November 8. He asked supervisor Chad Hardin to meet Customer C when he arrived back in Dallas. Hardin provided the following statement:

Flight 1058 arrived in DAL from LGA at gate 6 (4:40pm). I talked with Mr. [C] about the mis-boarding of his flight to LBB. He stated he flies with us every week to go preach at his church in Lubbock on Sundays. I asked him if he remembered the agent taking [his] boarding pass and he stated yes. I then asked him if he remembered it beeping and making a noise and he said yes he thinks but can't recall. He stated that [it] did board early at gate 9. He did seem a little tired from traveling all day and started to exit out towards gate 1. I caught him and directed him to the exit.

I gave him a Voucher for 200.00 for his inconvenience. I also sent an email to Customer Relations to refund the 218.98 back to his CC due to us not delivering on a service that we should have provided him. I told him not to worry about calling Customer Relations for the refund unless it doesn't show up in the CC the next month. I apologized for the inconvenience and said I hope to see you again next Sunday. [CX 7.]

Schooling explained that once a passenger makes a reservation, they have to purchase it or it will cancel out. A reservation also can be canceled by accident by a CSA, or intentionally. Once the itinerary is out it cannot be redone. If a boarding pass is reprinted, it shows up under "Boarding Activity." (CX 1, pg. 3.) He matched the schedule of employees working with the boarding passes checked in at the lower curb, and confirmed that CSA D, who he interviewed during his investigation, was there when Customer C checked in. He also questioned sup Mercado about her retrieving the boarding passes from the blue recycling bin at the gate. He looked for video footage of the Gate Reader but was unable to obtain it. He was able to get the camera view of Customer C walking down the concourse toward his gate, then going out of view. He also got a "camera shot," called Jetway Entrance 7, showing Customer C walking down the jetway to board the flight at 6:43:03 A.M.. (CX 8.) Schooling testified that the history of flight 2321 shows the first person was "on" at 6:42 A.M., reflecting the first scan. (CX 2, pg. 17.) From the "camera shot" and the scan times recorded, he identified when Customer C likely boarded.

As part of his investigation manager Schooling contacted Peter Guarini, in technology, to ask about the Gate Reader. Guarini told him he could not find anything indicating any problems. Schooling said that, at the fact-finding, he made the Grievant aware of the evidence that she had failed to scan Customer C's boarding pass, and the Grievant was "adamant that she was sure that she had scanned all the boarding cards,... and hadn't missed anybody." She also said that the flight attendant count matched up. Schooling reviewed her personnel file and decided to issue a Letter of Warning because of her violation of BPOC #s14, 28 and 32. Her failure to scan the boarding pass was a performance issue, but allowing a customer on a flight and having an incorrect manifest is a safety and security issue.

On cross examination, Schooling acknowledged that other boarding cards were found in the recycling bin, shared by gates 7 and 9, and, if someone turned in a boarding card at the gate, it could have been thrown there. Further, CX 1, on page 3, shows that a boarding card was

printed, but does not show whether Customer C got the wrong boarding card, or whether he lost it and got another one from someone else. Schooling acknowledged that it was possible that Customer C went to another agent and accidentally got the wrong boarding card and accidentally got on the wrong plane. He knew that Customer C flies every Sunday, but Chad Hardin, who interviewed him, did not indicate that he asked him if that had occurred. He did not speak with the flight attendant and there was no way to verify the count because the flight had already been completed. He did not believe that the count was correct.

Senior Specialist Guarini testified that he looked at the Gate Reader Message Log Detail, which captures all messages displayed to the user, and found no issues with the Gate Reader. The log for November 8, at gate 7, shows that the agent logged into the application at 6:34:20 a.m. and dedicated the application to flight 2321. The first scan occurred at 6:42:27 when a ticketed passenger was boarded and the Gate Reader prompted the agent to check for the ticket. The next line shows that the Operational System Data Store (OSDS) was notified that boarding had begun. The line at 6:49:15 a.m. indicates that the Gate Reader alerted the agent that they had just scanned a boarding pass that had already been scanned. He said that this could occur if a duplicate boarding pass was printed. The agent should go through the boarding passes to see if they already have two, and ask the passenger if they are the person on the boarding pass. Another entry indicates “invalid passenger ID,” in which case the passenger needs to be sent back to the gate podium. At 7:10:36 a.m. the manifest was printed for filing. [CX 11.] He concluded that the Gate Reader seemed to be working as designed, communicating with both SAS and OSDS. There did not seem to be any issues with the application or the workstation, which would be shown by a rededication, through rebooting or logging off, to the flight. In eight years working in his department, Guarini has never seen a Gate Reader accept a boarding pass for a different flight number.

On cross examination senior specialist Guarini could not say whether any of the 20 or 30 help desk employees had been contacted about this issue. He said that if Customer C had tried to board flight 2321 with his LBB boarding card it would have said “invalid flight.” With duplicate boarding cards, either can be used until one is scanned. Then, if the other is scanned, the Gate Reader will respond with “passenger already on board.” He agreed that, if Customer C had been given the wrong boarding card, he would have been on the flight and the count would have matched.

Labor manager Christensen testified that the Company commenced consistently issuing a Letter of Warning as the appropriate discipline for the first instance of misboarding a passenger in 2010. Since then, the Union has withdrawn grievances in such cases. She specifically reviewed the following:

- On November 13, 2013, Agent F was given a Letter of Warning when “Our Internal Customer,...was mis-boarded on Flight 4183 to DEN when he was confirmed on Flight 3696 to PHX.... You did not follow our boarding procedures and allowed the Flight Deck Jumpseat Observer to board a flight he was not confirmed on.” The Union withdrew the grievance on January 29, 2014, stating the “purpose of this correspondence is to notify the Company that I am withdrawing this grievance without prejudice, per

- grievant request.” [CX 12.]
- On May 19, 2015, Agent G was given a when a customer was “mis-boarded on flight 351 to LAX when he was confirmed on flight 2435 to HOU. The Union withdrew the grievance “based on the following information I discovered during my investigation  
-The Gate Reader message log showed that the agent scanned the boarding card  
-The passenger was still boarded on the flight even after the agent had a warning by the Gate Reader that he had to clear prior to allowing the passenger on the aircraft. I am withdrawing this grievance without prejudice.” [CX 13.]
  - On April 14, 2011, Agent H was given a Letter of Warning after the Company “concluded that you misboarded a Customer onto Flight 1661.” On August 25, 2011, the system Board unanimously denied the grievance, stating “upheld.” [CX 14.]

Christensen testified that none of the agents in the above-described cases had any prior discipline in their files. She also described the case of Agent I, which went to arbitration. [CX 15.] During the investigation the Company found that agent Agent I had done what is called “power boarding,” i.e., she would collect the boarding passes then scan them all at once. In this case she had errors come up on the Gate Reader saying the passenger was already boarded . She manually boarded a customer, putting in the wrong name, then when the correct customer came up, he could not board because she had already mis-boarded a customer. She said the current case is very similar because the flight attendant’s count matched the agent’s. Arbitrator Vernon said that the P-count could have been an error, but that “doesn’t erase Grievant’s prior errors.” There also was evidence, as here, that the Gate Reader and scanner were working correctly. Arbitrator Vernon denied the grievance stating that “it cannot be said that the Letter of Warning is an unreasonable penalty.” Christensen testified that there is no evidence that supports the Union’s conclusion that Customer C was given an incorrect boarding pass. No customer came up after the fact requesting a refund because they did not fly on that flight.

On cross examination, labor manager Christensen acknowledged that the evidence showed agent Agent I “blew through the error message” but there is no evidence that the Grievant had done so. She also acknowledged that, in the Agent G case, the agent had a warning from the Gate Reader and cleared it to board the passenger, but there is no evidence that the Grievant cleared an error code before allowing Customer C to board. The Grievant also did not “power board.”

The Grievant testified that if Customer C had given her the boarding card for flight 5947 she would have gotten an “invalid flight number” error on the message log and that message does not appear on the log for this flight. (UX 3.) When she signs into the Gate Reader, she has to type in the flight number and it will populate anything she does at the computer. To her knowledge, she has no way to manipulate that. She took her paperwork to the captain in the cockpit, told him to have a good day, stepped back out into the galley, and the flight attendant told her they had 136 passengers on board, the same number as on the manifest she had given to the captain. She did not need to follow the procedure for resolving inaccurate passenger counts, GOM section 6.2.5.6, because the count matched. (UX 5.)

The Grievant testified that, at the fact-finding, the Company said video was not available,

but she was shown a copy of the screenshot of Customer C entering the jetway at the fact-finding results meeting. Manager Schooling said the airport was able to pull up a snapshot. If they had looked at the video, they could have counted all the people getting on the airplane.

The Grievant, agent Y, agent A, agent B, agent C, and agent E testified about numerous examples of duplicate boarding cards, passengers being given the wrong boarding card, the manifest count not matching the crew count, a passenger trying to use a boarding card in her husband's name, TSA failing to notice that a passenger's ID did not match their boarding card, etc. (UXs 4, 6, 7, 8 and 9.) Agent C sat on the system board in the Agent H case and explained that he voted with the Company because she had failed to scan the boarding passes, which is different from this case. Agent E testified that she had been accused of mis-boarding a passenger, and they never found out how he wound up in the wrong city, but immediately blamed her. Arbitrator Hill awarded her grievance over the Letter of Warning she was given. (UX 10.) There was not an in-depth investigation and the passenger was spoken to only briefly. She said that, two months before the instant arbitration hearing, she was given someone else's boarding card when traveling as a non-rev.

Union witness Representative X had been a Union District Representative for nine years, was involved with the Union for 25 years, and is currently an operations agent in HOU. Representative X referenced a series of mis-boarding incidents in which agents were given a discussion log. (UX 11.) He said that, in each instance, the Company had proof. Similarly, he referenced a series of incidents in which the agents were given letters of instruction, and sometimes put back through training, when the agents admitted that offense. (UX 12.) In the Agent J and Agent K cases, the investigations did not confirm that they had failed to scan anyone and the Company awarded the requested remedy. (UX 13 and 14.) Representative X testified that, in the Agent I case, the card was on the passenger's phone and the arbitrator ruled that she had to clear it and accept that person on board when it said "wrong flight." Therefore, he upheld the warning letter. In this case the Grievant had no error code. Although the Company has the burden of proof and, from the beginning, the Union asked for video, the Company said it never existed. However, the still shot came from video and it would have been possible to count the people boarding the airplane by watching the video.

On cross examination, Representative X acknowledged that UX 12 included variations such as a Final Letter of Warning and Letters of Warning, some of which were issued around or prior to 2010. He said that the agent receiving the final warning previously had been given a six-day suspension and letter of instruction for the same thing, which were in his file.

Flight attendant F has been with the Company for 39 years and testified that passenger count is vital. She identified the provisions in the Flight Attendant Manual stating that it "must" be correct. (UX 15.) She explained that the count is not just about one passenger flying free. It is about weight and balance, and having a passenger they do not know who does not match his luggage. She said flight attendants will "count till ad nauseam" to get it right. For a flight such as this one, where the aircraft held 143 and there were 136 passengers on board, the flight attendant usually would count the empties, being aware of lap children and specials. After verifying the count with the ops agent, they verify it with the pilot. On cross examination, she

said that she has seen flight attendants get the count incorrect, initially, but added that count would not be used. She has never had a situation where the ops agent and flight attendant had the same count, and they later found out there was an extra passenger, or one less, on board.

**RELEVANT PROVISIONS OF THE COLLECTIVE BARGAINING AGREEMENT**

**ARTICLE TWENTY  
GRIEVANCE/SYSTEM BOARD/ARBITRATION  
DISCHARGE and DISCIPLINE**

**SECTION ONE  
PROCEDURES**

A. **Purpose.** No Employee who has passed his probationary period shall be disciplined to the extent of loss of pay or discharge without just cause.

C. **Cost of Arbitration.** It is understood and agreed that the cost of arbitration shall be borne by the losing party.

\* \* \*

L. **Interpretation/Application of Agreement.** In the event of a grievance arising over the interpretation of, or application of, this Agreement, or in the event of disciplinary action other than discharge, the following steps shall apply. However, if the action involves discharge or a Union grievance concerning a change in Work Rules, it shall proceed to sub- paragraph 3, below. Decisions made pursuant to Steps 1 through 3, below, shall not constitute precedent of any kind unless agreed to, in writing, by the Union and the Company.

\* \* \*

14. **Arbitration/Function and Jurisdiction.** The functions and jurisdiction of the Arbitrator shall be as fixed and limited by this Agreement. He shall have no power to change, add to, or delete its terms. He shall have jurisdiction only to determine issues involving the interpretation or application of this Agreement, and any matter coming before the Arbitrator which is not within his jurisdiction shall be returned to the parties without decision or recommendation. In the event any disciplinary action taken by the Company is made the subject of proceedings, the Arbitrator's authority shall, in addition to the limitations set forth herein, be

limited to the determination of the question of whether the Employee(s) involved were disciplined for just cause. If the Arbitrator finds that the penalty assessed by the Company was arbitrary or unreasonable, he may modify or remove that penalty.

## **CONTENTIONS OF THE PARTIES**

### The Company's Contentions

The Company contends that the Grievant's conduct on November 8 is reasonably characterized as negligent, when Customer C boarded the wrong flight. When questioned at the factfinding, the Grievant had no explanation of what occurred and never mentioned that Customer C might have had the wrong boarding pass. She did not testify at the system board, and, at the arbitration hearing, she did not mention any problems with the Gate Reader or offer any explanation as to what occurred.

The Company contends that there was just cause for issuing this for the Grievant's violation of work rules as to which, indisputably, she had been trained. The testimony of CSA D, that he rebuilt Customer C's reservation from scratch, supports that he could not have accidentally pulled up another customer's reservation and issued the wrong boarding pass. There were no LGA boarding passes for flight 2321 issued from the lower curbside position on that date, between 4:50 A.M. and 5:47 A.M.. Customer C's boarding pass and pre-board slip for flight 5947 were found with the other pre-board documents for flight 2321, supporting the conclusion that he gave his LBB boarding card to the Grievant. Company expert Guarini testified that he could find no technical problems with the Gate Reader and the message log indicated it was working properly throughout the boarding a flight 2321 to LGA.

The Company notes that this expert testimony was accepted by Arbitrator Vernon when he denied a grievance protesting a Letter of Warning for mis-boarding a customer. Further, in three other cases in which Letters of Warning were issued for mis-boarding customers, the Union either withdrew the grievance or a System Board denied the grievance.

The Company contends that the Union has failed to provide a single bit of evidence supporting its argument that Customer C was possibly issued the wrong boarding card or that the Gate Reader allowed him to board the LGA flight with the boarding card for the LBB flight. Thus, the Union has not rebutted the prima facie case the Company has established. Each Union witness testifying about wrong boarding cards being issued, said that they caught the error before the passenger boarded. Each of the situations involving the assessment of lesser discipline occurred prior to the Agent I arbitration decision or involved a different situation. The Grievant was not on the aircraft the entire time the flight attendants were doing their passenger count, and it is possible someone was in the laboratory. As Arbitrator Vernon stated, a flight attendant's error does not erase the grievant's.

For the above reasons, the Company requests that the grievance be denied.

### The Union's Contentions

The Union contends that the Company did not have proof to give the Grievant a Letter of Warning. They told the Union that they could not get video, yet produced a still shot at the arbitration hearing. Watching the video would have permitted them to count the number of passengers going onboard the aircraft, and would have shown whether there were 137.

The Union contends that the purpose of discipline is to correct behavior. The Company has issued a Letter of Warning to the Grievant but does not know what behavior they want changed. In the Agent I case Arbitrator Vernon found that she “blew through the error message.” That did not occur here as there was no error message. This was a normal flight. It is more likely that Customer C lost his boarding card, and an agent gave him the wrong boarding card. It is also possible that he was given a boarding card for a different passenger who did not fly. The statement from Customer C, contained in the supervisor's report, was that he thought he heard the scanner make a beeping noise. He was never asked if he lost his boarding card and got a replacement. At the time, agent Agent Y was not asked whether he had a passenger for the LBB flight who did not show up. That, too, should have been part of the investigation

The Union contends that, as acknowledged by manager Schooling, ticket agents do give out wrong boarding cards. The Grievant properly waited for the flight attendant to give her a final count, and the count of 136 matched hers.

For the above reasons, the Union asks that the grievance be awarded and that the Grievant be reinstated to his position and made whole in every way.

### **ISSUE**

Did the Company have just cause to issue a Letter of Warning to the Grievant? If not, what shall the remedy be?

### **FINDINGS**

In this discipline case the Company has the burden of establishing just case for issuing the Letter of Warning to the Grievant. That is, the Company must establish both that the Grievant committed the offense with which she is charged, i.e., that she mis-boarded Customer C, and that the Letter of Warning was the appropriate penalty. Here, the Grievant denies that she mis-boarded Customer C.

There is no doubt that properly scanning the boarding pass of each passenger is an important duty that is covered in training. If a passenger boards an aircraft without the boarding pass being scanned, that passenger will not be listed on the manifest. This can result in a weight and balance error, and can cause a safety and security issue

There also is no doubt that Customer C boarded the wrong flight. He is a regular

Southwest Airlines customer who flies from DAL to LBB every Sunday morning. He is known to many Southwest Airlines employees and is easily recognizable. On November 8, he, again, intended to travel from DAL to LBB and checked in at the lower curb. The fact that his reservation was “empty” and CSA D had to make a new one is beside the point. The evidence is persuasive that CSA D did issue Customer C a boarding pass for flight 5947 to LBB.

Flight 5947 to LBB left out of gate 9. When Customer C did not board that flight, his boarding pass was cancelled. The Company first learned of what occurred when Customer C arrived at LGA. The only evidence that he was questioned by any member of management to find out what had occurred comes from the statement of supervisor Hardin. According to Hardin, Customer C reported that he remembered the agent taking his boarding pass and said that he may have heard beeping (as when a boarding pass is scanned) but was not certain. There is no evidence that he was asked whether he had misplaced his boarding pass and been issued a new one.

That statement significantly undermines the Company’s case. Customer C is a regular customer who makes weekly flights from DAL to LBB. His statement to supervisor Hardin indicates that he is sufficiently familiar with the boarding procedure to know what “beeping” meant. The fact that the Company had learned, promptly, that this passenger recalled the agent taking his boarding card and that he thought he heard the scanner beep, indicates that the Grievant did perform her job correctly. The Company did not explain why they were unable to promptly obtain video of gate 7, that might have shed light on what occurred. The Company’s investigation did eliminate some possible explanations for how this mis-boarding happened. The absence of a specific explanation establishing how the mis-boarding did happen does not, however, prove that the Grievant was responsible. In this regard, this case is very similar to the Agent E case, decided by Arbitrator Hill. (UX 10.)

In the cases cited by the Company asserting an agreed-to practice, allegedly in place since 2010, of issuing a Letter of Warning for the first offense of mis-boarding a passenger, the fact that the agent had mis-boarded the passenger was established or not disputed.

For the above reasons, the Company has not established just cause for issuing a Letter of Warning to the Grievant, as is required by Article Twenty, Section One-A. Therefore, the grievance will be sustained. All references to the Letter of Warning will be removed from the Grievant’s file. In accordance with Article Twenty, Section One, Paragraph C, the costs of the arbitration shall be borne by the Company.

**AWARD**

The grievance is sustained. The Letter of Warning and all references to it will be removed from the Grievant's file. In accordance with Article Twenty, Section One, Paragraph C, the costs of the arbitration shall be borne by the Company.

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Elizabeth Neumeier, Arbitrator

October 16, 2016