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* IN THE MATTER OF THE ARBITRATION BETWEEN *

* SOUTHWEST AIRLINES CO. *

* AND *

* SOUTHWEST AIRLINES R.O.P.A. *

* * * * *

ISSUE:

████████████████████

DISCHARGE

The hearing was held on August 29, 1990 at the Hampton Inn in Chicago, Illinois before Arbitrator Edward T. Steadman, mutually selected by agreement of parties.

The grievance was properly before the Arbitrator in accordance with Article XX of the collective bargaining presently in effect between the parties (Joint Exhibit 2).

There was no court recorder's transcript of the proceedings. Both parties were afforded full opportunity to present their case and offer testimony of witnesses and exhibits at the hearing. Closing statements were made, as the parties concluded their case.

The employer's case was presented by Ruth Landau, Chief Counsel-Labor Relations, and the association's case was presented by Chris Greene, R.O.P.A. Local Representative.

Representing the parties and present at the hearing were:

For the Company

For the Association

- Ruth Landau - Labor Counsel
- Jim Chancellor - Regional Director
Ground Operations
- Pat Whealy - M.D.W. Ramp Operation
- Willie Edwards - M.D.W. Station Manager
- Rob Ludwig - Supervisor

- Chris Greene - Local R.O.P.A. Rep.
- Mike Lovett - District Rep.
R.O.P.A.
- ████████████████████ - Grievant

The issue before the Arbitrator is, "Was the grievant, ██████████

██████████ discharged for just cause, and, if not, what is the appropriate remedy?"

BACKGROUND

R ██████████ had been employed by Southwest Airlines and was originally hired in 1987. He was performing the duties of a Ramp Agent at Chicago's Midway Airport until his discharge on April 19, 1990, and he is represented by Southwest Airlines Ramp Operations and Provisioning Association (R.O.P.A.).

The record shows ██████████ had problems with his overall attendance during his tenure of employment, having been absent, tardy and sick on many occasions. But, the action taken by the company, which resulted in his discharge, was for failure to call in and report such absences, in accordance with Article XVIII Section K which reads as follows (Joint Exhibit) 1).

When employees are unable to report to work at their regular shift starting time, they shall inform their supervisor at least one (1) hour prior to scheduled work time unless they are unable to do so because of a reason beyond their control. After an unsuccessful attempt to notify the supervisor, a call to whoever is on duty at the location office phone notifying that person of the inability to report will satisfy this paragraph. The responsibility for making certain that the Company is promptly notified is the responsibility of the employee.

The employee received warning letters and attended fact finding meetings dealing with the subject of his absence and failure to report. During the period July 27, 1989 through April 19, 1990, six letters were issued and offered as evidence supporting the company's actions against the employee. Two witnesses gave direct testimony regarding their involvement in the case and the company entered into evidence a copy of the

Ground Operation Manual issued December 25, 1987, which became effective January 1, 1988 (Company Exhibit #8) which outlined the employees' responsibility to report his absences and sited the following sections:

Section 1.40.00

- (4) Dependability and punctuality are necessary. You are expected to be in, or at your position and ready to work when you are scheduled.
- (6) Management must rely on prompt and regular attendance of employees. When an employee cannot report for work due to illness or other emergencies, it is his responsibility to notify his immediate supervisor, giving the reason of absence and probable duration. Should the absence extend beyond the estimated duration, it will be the responsibility of the employee to keep his immediate supervisor advised regarding changes in condition, point of contact, and the date of expected return.

Section 1.45.00

- (1) Excessive absenteeism or tardiness or failure to maintain a satisfactory attendance record.
- (2) Unauthorized absence of leaving work without permission.

The company offered Company Exhibit #5 which outlines the procedure to be followed by employees when reporting their absence from work.

COMPANY POSITION

The company maintained the employee record supported their actions to discipline and finally discharge the grievant for cause. He had repeatedly failed to heed the warnings issued

to him and continued to violate company work rules, and corrective discipline and suspensions had been imposed upon him.

As a carrier in the transportation industry servicing the public, they could no longer tolerate his failure to report his absence from work to his supervisor. In his absence, the company had to provide replacements or work other employees overtime to ensure their flights departed on time. They requested the discharge of [REDACTED] be upheld.

ASSOCIATION POSITION

The representative for R.O.P.A. argued the discharge was unjust and without merit and [REDACTED] was not guilty as charged. His termination was not as a result of tardiness or absenteeism, but for one single incident of failure to call in on November 5, 1989, which was not sufficient grounds for his discharge. They argued [REDACTED] had attempted to call in on April 13th, July 21st, and July 23, 1989, but was unable to reach a supervisor on those and other dates. They charge the employer with double jeopardy, harassment, and coercion because they wanted to make an example of him. The association requested reinstatement of the employee with all rights and benefits.

OPINION

The company offered seven exhibits and the testimony of two witnesses who had firsthand knowledge of the facts and circumstances of the case. Each had been directly involved with the grievant, his absenteeism, and failure to report his absences to his immediate or other supervisors.

The association elected not to present any witness for direct testimony or cross examination. Even the grievant was not presented as a witness in his own defense. The association based its case on argument, without direct testimony of a witness to support its case. Only one admissable exhibit was entered into evidence, which consisted of sixteen pages (Association Exhibit #1) of warning letters to six other employees involved in like or similar circumstances, together with inter-office memos dealing with the same subject matter.

This employee was not discharged for his absenteeism or tardiness, even though the company would have had justifiable reasons for doing so. His attendance record, January through July, 1989, indicated he was tardy 12 times and absent or sick 10 times, which, in itself, may have been grounds to terminate his employment. The company gave him a warning letter on July 27, 1989 (Company Exhibit #1) advising him he had an obligation to notify the company within one (1) hour of his inability to report for duty. On August 28, 1989, (Company Exhibit #2) he was warned again for the same violation and suspended for one (1) day. On November 14, 1989, (Company Exhibit #3) he was warned again for the same violation and suspended for three (3) days.

On February 12, 1990 (Company Exhibit #4), he was warned for a no-show failing to report at 0630 hours and failed to report his absence until 0807 that morning, again violating Article XVIII Section K.

On April 17, 1990, (Company Exhibit #6) he was again charged with failure to notify his supervisor of his absence on April 13, 1990, and following a fact finding meeting held on April 18, 1990, [REDACTED] was discharged on April 19, 1990 (Company Exhibit #7).

Company witnesses, Willie Edwards and Rob Ludwick, offered undisputed testimony regarding the employee's failure to call in and report his tardiness and absence and his repeated violation of the rule. Ludwig testified he was home when the grievant claimed he called, and if he had left for work, he would have received the message on his answering machine. The fact was [REDACTED] never called to report, as required. Ludwig further testified on several occasions when [REDACTED] failed to report to work, as scheduled, he called the employee and got him out of bed, which was also supported by statements made by Chris Paluch, addressing the question of [REDACTED] failure to call in on August 19, 1989 (Company Exhibit #2).

In answering questions posed by the Arbitrator, [REDACTED] stated, "He had only failed to call in one time and that was November 5th, 1989", but it was evident from the record and direct testimony of company witnesses that there were many occasions when he failed to comply with the requirements.

[REDACTED] demonstrated complete disregard for company rules. He was negligent in his obligation to his employer and repeatedly violated Article XVIII Section K of the Agreement. He was well aware of the procedure to be followed, but failed

to adhere to the policy. Even after being warned and suspended, the grievant showed a lack of concern for his job, the continuity of his employment, and his obligation to his employer.


The company proved they applied corrective progressive discipline practices to ensure this employee followed the procedures for reporting his absences from work, but still he failed to do so.

The association defended the grievant to the best of its ability, under the circumstances, but the testimony of witnesses and evidence submitted at the hearing strongly support the company's case. The association failed to prove the charges brought against the employer. [REDACTED] clearly violated Article XVIII Section K and was disciplined and discharged accordingly.

AWARD

The discharge of [REDACTED] is upheld and the grievance is denied.

Issued this 12th day of September, 1990,
Chicago Illinois


Edward T. Steadman, Arbitrator