
IN THE MATTER OF ARBITRATION

OPINION AND AWARD

between

SOUTHWEST AIRLINES, INC.

Grievance No.

ATL-R-1330-14; Discipline

and

of [REDACTED]

TWU LOCAL 555

Gil Vernon, Arbitrator

APPEARANCES:

On Behalf of the Company: Edward F. Berbarie, Attorney – Littler Mendelson, P.C.

On Behalf of the Union: Mark Waters, TWU Local 555 – District IV Representative

I. ISSUE

The issue presented by the Grievance before the Board can be framed as follows:

“Was there just cause for the discipline of the Grievant, and if not, what shall be the remedy?”

II. BACKGROUND

The discipline protests the Employer’s issuance of discipline to the Grievant, a ramp employee in the Employer’s Atlanta Airport operation. The discipline

letter dated May 21, 2014 reads as follows:

A fact-finding meeting was held on May 15th, 2014, to discuss your involvement with Flight 1609 ATL/BWI on May 7, 2014. Present at this meeting were you, TWU Representative [REDACTED] & John Pierre Lonregnard as well as Concourse Mgr. Chandra Mills facilitating and myself.

After a complete investigation into this matter and after review of the testimony and documents provided at the fact finding, we have concluded that you didn't accurately document the Cargo Bin Loading Schedule when you failed to annotate 111 bags, which caused a weight and balance issue. Such conduct is not consistent with Southwest Airlines. This behavior is unacceptable, and is in violation of 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.

Based on the above and because of your actions, this letter will serve as a Final Letter of Warning. In addition you will be subject to fifteen (15) disciplinary days off without pay. The disciplinary days off without pay will be at the discretion of you Station Leaders. Please be advised that 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 that we can do to assist you, please do not hesitate to contact a Supervisor or Manager.

Subsequently, a grievance was filed and when it could not be resolved it was appealed to arbitration. A hearing was held in Dallas Texas on October 15, 2014 and following receipt of a transcript of the proceedings post-hearing briefs were filed. Briefs were exchanged filed November 21, 2014.

IV. OPINION AND AWARD

The basic facts are undisputed. Grievant, on the day in question was Gate Lead on Gate 10 on May 7, 2014 in Atlanta (ATL). Grievant testified that as the 'push time' was drawing closer her supervisor reminded her of the impending

departure time and to help expedite loading he also told her he would put the remaining bags on the belt and that she should just count the bags on the cart. She complied.

A Gate Lead is to fill out two forms concerning the loaded bag count. They are the Gate Lead Report and the Cargo Bin Loading Schedule (“CBLIS”) form. Grievant’s Gate Lead Report was correct, but the CBLIS form was not and failed to reflect a total of 111 bags that were on the plane. In other words, there were 111 bags on the plane that were not on the report. The form requires an accurate count of bags in each cargo bin. The following reflects the actual number of bags in each bin and the number Grievant listed on the CBLIS and the net difference.

<u>Bin</u>	<u>Actual</u>	<u>Grievants CBLIS Count</u>	<u>Difference</u>
F	20	18	-2
E	8	10	+2
D	108	0	-108
A	26	23	-3
	<u>162</u>	<u>51</u>	<u>-111</u>

Bag counts are important because they affect the total weight and weight distribution (balance) of the aircraft. Not only do the Company policies and procedures (on which Grievant acknowledges she was trained) require accurate bag counts but the FAA regulations also require accurate bag counts.

Pilots and Flight Dispatchers need correct weight information to calculate and execute a number of safety critical operations including (1) the amount of fuel

needed as the lighter the airplane the less fuel is required and the heavier it is the more fuel is needed, (2) the amount of speed to get off the ground as a lighter plane takes less runway and a heavier plane takes more runway, (3) the amount of braking and the length of runway needed to stop as a heavier plane takes more, (4) weight is important in the event of a mechanical failure like a loss of an engine while the aircraft is in route, and (5) descent rates because if an aircraft is heavier than you think it might sink a little quicker.

The Grievant's error meant her CBLs failed to account for some 3400 pounds and could have resulted in critical safety miscalculations. There was testimony at the hearing that one of the Company's departments tracks weight and balances. It was stated an error in excess of 2500 pounds is very rare and "very significant" in its potential to impact performance of the aircraft.

On the day in question, Grievant turned her CBLs in to an Operations Agent to be processed and inputted. The computer system is designed to highlight weight variances when they fall outside generally expected parameters. As the Arbitrator understood, for example, the system would have expected more bags for the number of checked-in passengers. When this happens a "pop up" message appears on the Operations Agent's screen and can be bypassed or overridden. In this case, unfortunately, the Operations Agent overrode the message and did not catch the Grievant's error.

There is some pointed debate in the record as to when the Grievant's error was caught. There seems to be no debate however that the error was caught by the destination station (in this case BMI). Nonetheless, at the hearing a Company witness indicated the mistake wasn't caught until the flight was in the air. The Union hotly challenged this as a change in position and asserted that previously in earlier steps the Company acknowledged that the error was caught before takeoff.

Regarding the first and fundamental question in any discipline case--namely "whether the employee committed a policy or rule violation"--the Grievant acknowledges her error in failing to correctly list the right number of bags and more particularly to list the 108 bags in bin D.

The debated question in this case is whether a final letter of warning and a 15-day suspension without pay is an appropriate penalty under the just cause standard. Of course, the issue of whether mitigation exists is always relevant.

In this case, the Arbitrator does not believe whether the error was caught before or after takeoff is particularly meaningful. The more critical issue by far is that the Grievant's error was made and that it had to be caught by someone else. Similarly, it does not relieve Grievant of any responsibility that the Operations Agent failed in his job to catch her error (who coincidentally received the same discipline). Systems and procedures designed to operate safely have checks and balances and redundancies. The fact a down-line check failed to catch her error

isn't mitigation. If anything, it stresses the importance of getting it right in the first place.

As for the point that her supervisor hurried her up, it cannot be lost that he also assisted her and that he asked her as a result to focus on only one thing and that was counting the bags. There is no evidence the supervisor suggested she cut corners.

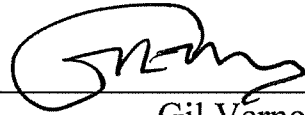
As for the quantum of discipline a final warning plus a 15-day suspension is indeed a significant penalty. However, in this case, the error was significant and it was important information that related to the safe operation of the aircraft. It is difficult to imagine a more safety-critical task for a Gate Lead.

Another factor that suggests the discipline is not excessive is the short tenure of the Grievant and the fact compliance with procedure had been the subject of several discussions with her. In the short time since she had been hired (in September of 2013), Grievant received two formal Discussion Logs for separate incidents; one for failing to follow procedures in relation to reading tags on bags, and another for failing to follow security/compliance/safety procedures.

The Arbitrator doesn't doubt Grievant can learn from this error. She deserves that chance. As she goes forward she should keep this event in mind. There is no more important part of her job than safety.

AWARD

The grievance is denied.

A handwritten signature in black ink, appearing to read 'G. Vernon', is written over a horizontal line.

Gil Vernon
Arbitrator

Dated this 17th day of December 2104.