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**IN THE MATTER OF ARBITRATION**

**OPINION AND AWARD**

**between**

**SOUTHWEST AIRLINES**

**Case No. BNA-R-2296/11/  
Discipline – [REDACTED]**

**and**

[REDACTED]

**TRANSPORT WORKERS UNION  
LOCAL 555**

**Gil Vernon, Arbitrator**

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**APPEARANCES:**

**On Behalf of the Company:** Michelle Morgan, Attorney III,  
General Counsel Department

**On Behalf of the Union:** Mark Waters, District IV Representative

**I. ISSUE**

The issue before the Board is:

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

**II. BACKGROUND**

The Grievant is a Ramp Agent in the Employer’s operation at the Nashville, Tennessee Airport (BNA). On the day in question he was assigned as a T-Point Agent. T-Point Agents are assigned responsibility for numerous flights throughout

the day. Their primary responsibilities include looking for, noticing, and pulling the bags off the carousel for their assigned flights and sorting them appropriately (i.e. keeping local and transfer bags separated) so they are loaded properly at the gate. One of the flights he was responsible for was Flight 529 from Nashville to San Antonio, which was scheduled to depart at 10:45 a.m. from Gate C21.

The typical procedure would be for him to run the bags that he had sorted for Flight 529 out to the aircraft 25 minutes prior to departure. If there are late bags checked (i.e. checked in less than 30 minutes prior to departure) the Agent, to state it in general terms, is supposed to attempt to get those bags to the aircraft, if necessary, with an additional trip.

On the day in question shortly after the departure of F529 Grievant reported to his Ramp Supervisor Dan Ottolini, that he had three bags that had missed F529. Grievant was also adamant that the bags were not at the T-Point carousel when he made his first run to the plane and that when he took them to the aircraft on a following run he was waved off and told that the pushback procedure had begun.

Consistent with procedures, the Ramp Supervisor requested records from the vendor who operates the bag scanning and belt system. There are scanners at certain points on the belt system which scan bag tags and record certain information such as the time a bag passed the scanner. The vendor provided information to Ottolini that shows three time markers. The first is the time the bag

was checked in at the counter or curb. The second time is just after the bag leaves TSA inspection. And, the last is the “divert time” which the Supervisor stated was the time the bag left the main conveyor belt and dropped into Southwest’s carousel where bags are sorted by Agents for loading. The following reflects the information he got from the vendor (the Vanderland Company):

0526843025 Flight 529 departs at 1045 checked in at 1004 sort time 10:09:42  
Divert Confirm 10:10:26  
0526843160 Flight 529 departs at 1045 checked in at 1004 sort time 10:09:08  
Divert Confirm 10:09:51  
0526816060 Flight 529 departs at 1045 checked in at 0804 sort time 08:08:33  
Divert Confirm 08:09:17

Based on this the Company conducted an investigation. Following the investigation the Company issued the Grievant a letter of warning reading as follows:

TO: [REDACTED] #61678  
FROM: Chad Dindo BNA Manager of Ramp ad Operations  
DATE: November 26, 2011  
SUBJ: Results of Fact-Finding – Job Performance – Letter of Warning

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A fact-finding meeting was held on November 19<sup>th</sup>, 2011 to discuss your Job Performance. Present at this meeting were you, TWU Representative [REDACTED], Ramp Supervisor Brion Avilla, and myself.

During this meeting we discussed your Job performance and missing bags. After completing the investigation into this matter, and after review of the testimony and documents provided at the fact-finding, we have concluded that you were negligent in your job duties and as a result Customers bags did miss their intended flight that you were assigned to on November 16, 2011. 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:

14. Performing your job in a careless, negligent, or unsatisfactory manner

On July 6<sup>th</sup>, 2011 you and Ramp Supervisor Dan Ottolini sat down and discussed 5 bags that missed a flight that you were responsible for.

On November 4, 2011 you were issued a Letter of Instruction for leaving 10 bags off from your assigned flight.

On November 15, 2011 you were issued a Letter of Warning for missing 3 RDU bags for a flight that you were responsible for.

In the Fact Finding meeting I asked you also if additional training could possibly help you and you stated "Yes, maybe someone can show me what I am doing wrong". After review, I believe that working a shift with a trainer could be beneficial to you. You will be setup with a trainer at the earliest possible convenience. Based on the above and because of your actions, this letter will serve as a Letter of Warning. Please be advised that the behavior that you have displayed will not be tolerated. Any further violations of this nature will result in discipline, up to and included 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 protesting the Company's decision. The matter could not be resolved and ultimately was appealed to arbitration. A hearing was held in Dallas, Texas on April 11, 2012. Following receipt of the transcript, post-hearing briefs were received May 22, 2012.

### **III. OPINION AND DISCUSSION**

The position of the Parties can be succinctly summarized. It is the position of the Company that Grievant was negligent in the performance of his duties and thus there was just cause to issue him discipline. They also argue that the letter of warning is lenient given his prior record. The Company also rejects the Union's defense that the Grievant was without fault. The Union, the Company says, failed in its attempt to undermine the Vanderland data as it was based on second-hand

information obtained four months after the incident. The Union witnesses all admitted to having no personal knowledge regarding whether or when the missed bags were on the T-Point baggage carousel. The Company also notes it is undisputed that the Grievant failed to contact his Supervisor or Gate Lead or anyone else via radio or otherwise to alert the gate that he was delivering non late-checked bags close to push time.

The Union contends the Company's action lacked just cause as its decision followed an investigation that was not thorough or complete. The Union contends the Ramp Supervisor failed to determine or investigate where (at what point in the conveyor system) the scan times were taken. A Union witness conferred with a Vanderland employee and testified he was shown that there were (in sequence) scanners right after TSA, at the American Airliner divert, the default belt and then the Southwest kickoff. The Union produced pictures of these scan sites. He was told by the representative (a gentleman nick-named "Minnesota") of Vanderland that the scanner the supervisor based his discipline on was right after TSA. From this the Union says it was possible the missing bags were kicked to the AA belt or to the default belt to which unscannable bags go before going to SWA. Someone may have also pulled the bags by mistake only to return them to the carousel later. As for the Company argument that Grievant should have radioed he was on the

way with the bags, the Union notes there was no written rule requiring this until two months later.

After a review of the record of evidence and the extensive arguments, the Arbitrator is satisfied that the preponderance of evidence established that Grievant was sufficiently negligent in the performance of his duties to justify some measure of discipline.

The testimony of the Company witness was specific and certain that the divert time on the Vanderland data was the time it got dropped onto the SWA carousel. He had familiarity with the data and his testimony wasn't seriously undermined on cross-examination. He merely acknowledged the document he reviewed that lists the divert time doesn't list where that diversion took place. That the document doesn't list the divert location doesn't contradict his testimony as to what it means. His testimony also wasn't put in any serious question by the testimony of the Union rep from the Ramp. It is believable that there are several diversion points on the conveyor system. However, not much weight can be given to the reliability of the statement given to him by "Minnesota". While there is no reason to disbelieve the Union witness as to what he said "Minnesota" said to him, that doesn't mean what "Minnesota" told him is true or factual. That can't be known without either hearing from "Minnesota" himself (subject to cross examination) or some other persuasive documentation.

When weighing the Supervisor's testimony against the hearsay testimony as to what "Minnesota" said, more weight must be given to the Supervisor.

"Minnesota" may have misunderstood the question(s) put to him and/or the Union rep may have misunderstood his answer.

The Arbitrator must say he agreed with the Union on two points. First, there is significant doubt about the bag that was checked at 0804. It is difficult to believe it went around the carousel for over two hours. If it had it would or should have been noticed by Grievant's relief worker. The Company didn't erase this doubt. Second, the Union persuasively argued there was no written rule or other evidence of notice that required Grievant to alert someone that late bags were on the way.

What the Arbitrator is left with is evidence in this case that two bags came to Grievant's carousel in sufficient time to have been loaded before the aircraft pushed back. This is sufficient to justify minor discipline such as a letter of warning, especially in light of his prior record.

**AWARD**

The grievance is denied.



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Gil Vernon  
Arbitrator

Dated this 31<sup>st</sup> day of July, 2012.