

BEFORE ARBITRATOR BRIAN CLAUSS

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TWU Local 555

and

Southwest Airlines

Grievant: [REDACTED]

#PHX-R-0780/23

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AWARD

A grievance hearing was held in Dallas, Texas on May 24, 2023, regarding the Letter of Warning issued to Grievant on March 14, 2023, during which the Employer presented the testimony of two witnesses and the Union presented the testimony of a witness. Pursuant to the Agreement, the parties participated in a mediation session following the arbitration hearing. The parties were unable to resolve the matter through mediation.

The evidence shows that Mr. [REDACTED] an employee at the Phoenix Airport, was driving a tug on February 28, 2023. Mr. Jeng, a ramp supervisor, was assisting in the baggage loading at Gate C-2. While moving a baggage cart, Mr. Jeng observed Grievant drive through the area and graze the rear left corner of a Pushback as he passed. Grievant continued driving the tug. Mr. Jeng saw Grievant continue down the building for a short distance before losing sight of him.

Mr. Jeng made appropriate notifications of the positive contact between the tug and the Pushback. An investigation ensued. The Pushback and towbar were removed from service pending inspection and a new replacement attached. Video of the incident was reviewed and Grievant was identified as the operator of the tug.

Following the investigation, a fact finding was held on March 7, 2023. A Letter of Warning was issued for failing to maintain situational awareness in violation of Principles of Conduct 14 and 28. The Union filed a grievance and the matter was not resolved through the grievance procedure of the Agreement.

The evidence also includes a video of the area immediately adjacent to the tug. A review of the video indicates that Grievant drove through the area between the tug and where Mr. Jeng was wheeling a luggage cart. Mr. Jeng was no more than twenty feet from the Pushback as Grievant drove past. According to Mr. Jeng, the left side of the tug grazed the corner of the pushback. He described that graze as enough to move the tug slightly sideways. The parties all agreed that tugs and Pushbacks are made of steel plate and are battered. There was no way to determine if the scrapes and marks on the Pushback were from prior use or Grievant's tug.

In order for just cause to be established, an employer must show a reasonable work rule, an act in violation of the rule, an appropriate investigation, and discipline appropriate to the misconduct. The Employer maintains that Grievant committed the infraction and there is no contradiction of the testimony. The Union argues that although there was a rule and an investigation, there is no proof of the incident occurring.

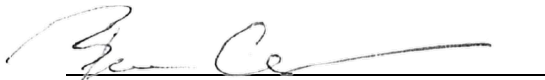
The evidence shows Mr. Jeng in the area of the incident pushing a baggage cart. Grievant operated a tug in the immediate vicinity of Mr. Jeng. Mr. Jeng had the opportunity to observe what occurred from his position. He stated that he saw the tug glance the pushback – a positive contact that required reporting and inspection of the equipment. Grievant did not report the incident.

A video of the incident shows that tug coming through the area and Mr. Jeng in the immediate vicinity. He had an opportunity to see the glancing blow from a short distance away from the incident. Although the reports conflict on which side of the plane Mr. Jeng was on, the video confirms that he was on the Number 2 side.

Mr. Jeng described what he saw and that description was not contradicted by the evidence or testimony. The Employer established that a violation occurred and that Grievant was not aware of his surroundings when he struck the tug and drove on without noticing the glancing blow.

The issued Letter of Warning will serve the purpose of progressive discipline to correct improper conduct and warn of the consequences of future improper conduct.

Grievance denied.



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Brian Clauss, Arbitrator  
May 31, 2023