
IN THE MATTER OF ARBITRATION

OPINION AND AWARD

between

SOUTHWEST AIRLINES

Case No. BNA-0-2423/14

and

**TRANSPORT WORKERS UNION
Local 555**

Gil Vernon, Arbitrator

APPEARANCES:

On Behalf of the Company: Chris Maberry, Attorney – Southwest Airlines

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

I. ISSUE

The issue presented by the grievance before the Arbitrator can be framed as follows:

“Did the Company have just cause to issue the Letter of Warning dated October 24, 2014 to [REDACTED] and, if not, what shall be the remedy?”

II. BACKGROUND

This case started with one undisputable event. A passenger boarded the wrong flight in Nashville on October 1, 2014. It is also undisputed the Grievant was the Agent in charge of boarding the flight at the gate scanner.

Obviously, something went wrong. The fact is several things went wrong.

In short, the Company claims Grievant made two errors. The Union contends there is no proof she is responsible for the mix-up and that the computer system is subject to errors.

It is not unheard of that passengers make errors by going to the wrong gate and as a result attempt to board the wrong aircraft to the wrong destination. The principle safety valve to prevent this is the Agent and the electronic device that scans the passenger boarding passes (whether in paper form or an electronic code displayed on a mobile device). In such a case, if the scanner, which is linked to the Company's computer system, is working correctly it alerts the Agent to a mismatch between the flight number associated with the boarding pass and the flight number being boarded at the gate. A mismatch in flight numbers is not the only reason an error message would be displayed. In addition, for example, an error will be displayed if the system believes someone is boarding with a boarding pass that has already been scanned.

There are also instances where the scanner for one reason or another simply doesn't read and register the board pass (either paper or on a mobile device). If for some reason the gate reader does not successfully detect and scan a boarding pass, an Ops Agent may manually board a passenger by verifying their identity against the passenger manifest. To manually board a passenger an Ops Agent must select

that passenger's name from the computer at the workstation where they stand while passengers are boarding. Then the Ops Agent must acknowledge and override the error message by selecting "OK" on their computer.

The passenger who boarded the wrong flight had the last name of [REDACTED]. His first and middle name was [REDACTED]. To avoid confusion in writing and reading this decision he will be referred to as [REDACTED]. The confusion relates in part from the fact there was another passenger on the flight boarded by Grievant named [REDACTED] to be referred to as [REDACTED]. Of course the names are very similar as they share the same last name and one uses [REDACTED] as a middle name and the other uses [REDACTED] as a first name [REDACTED].

[REDACTED] was ticketed and was supposed to fly to and from BNA to MDW to PHL on F2954 out of Gate C21 at 10:55 a.m. Instead he got in line at Gate C25 for F1522 (also scheduled to depart at 10:55 a.m.) BNA to DTW.

It is not disputed that when [REDACTED] presented his boarding pass to Grievant she allowed him to board the DTW bound flight rather than redirecting him to the flight MDW. [REDACTED] ended up in Detroit and had to be rerouted to get to PHL. He filed a complaint with the Company.

The Company started an investigation to determine what happened. It concluded that [REDACTED] mobile boarding pass did not successfully scan and as

result Grievant (1) went to the flight manifest and saw the name [REDACTED]

[REDACTED] (2) mistakenly checked that name off as okay to board and (3) allowed [REDACTED] to board in error.

The Company also determined from looking at computer records that when [REDACTED] tried to board the flight five minutes after [REDACTED] an error message was generated to the Grievant indicating the “passenger had already boarded”. Rather than investigating why that error occurred—which could have led to the discovery of her error confusing the name of [REDACTED] with [REDACTED] because there was only one [REDACTED] on the flight—Grievant overrode the error message and allowed him to board as well.

There is another undisputed fact. When the Grievant gave the Flight Attendants her passenger count (“ P-count”) she was told the Flight Attendants’ count matched hers.

As a result of its investigation that included a contractually mandated fact finding meeting with Grievant, the Company issued Grievant a letter of warning which read as follows:

A fact-finding meeting was held on October 14th, 2014 to discuss a misboarded Customer on flight 1522 on October 1st 2014. Present at this meeting were you, TWU Representative [REDACTED] Operations Supervisor Michael Cole, and myself.

On October 1st, 2014 you worked flight 1522. Our valued customer, [REDACTED] was misboarded on flight 1522 to Detroit (DTW) when he was confirmed on Flight 2954 to Chicago (MDW). After completing the investigation into 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 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. 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 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.

A grievance was filed stating “excessive discipline due to the unusual circumstances in this incident” and as a remedy asked the letter be removed from Grievant’s file.

When the matter could not be resolved it was appealed to arbitration. A hearing was held March 18, 2015. Following receipt of the hearing transcript, post hearing briefs were filed and exchanged May 3, 2015.

III. OPINION AND AWARD

It is the conclusion of the Arbitrator that the preponderance of the evidence (to a degree that it is convincing) supports the Company's conclusion that Grievant was careless in the discharge of her duties when boarding flight F1522 on October 1, 2014.

As a general matter and without a doubt, errors do occur during the electronic boarding and scanning process. As noted, one of these errors is the fact that sometimes a boarding pass will not register when passed through the scanner. In the case of a paper boarding pass, the paper might be crumpled or the ink might be smudged. In the case of a symbol on a mobile device such as was used here, it could be a reflection or smudge on the screen or the cover might interfere or the screen may have gone dark as a result of a power saving function of the mobile device.

The evidence (transcript page 151) shows that when one of these things happen the system displays nothing (neither an error or a go-ahead type message). The Agent would have to make some decision and/or take some action to allow the passenger to board without a successful scan.

The evidence leaves the Arbitrator to conclude that for some reason A.J.H.'s boarding pass did not scan and that by far the most likely explanation as to why he was allowed to board was a manual clearance by Grievant. The same conclusion

arises with respect to [REDACTED] being allowed to board as Grievant overrode the error message that he had already boarded. Indeed, these conclusions go hand in hand.

The mere possibility that an electronically scanned boarding pass would not flag a boarding mismatch between the ticketed destination and the gate and aircraft destination is not enough to overcome the wealth of evidence presented in this case. There is no quibble with Arbitrator Hill's decision in [REDACTED]. It is, however, distinguished on its facts. There was evidence in that case which was not presented in this case. In the instant case, there was broad testimony by a technical expert that there has never been an instance where a gate reader incorrectly scanned a boarding pass and allowed a passenger to board the wrong flight. He further testified that the Gate Reader could not make that type of error. Even if his sweeping conclusion were skeptically viewed as self-serving, there is plenty of evidence that indicates this scanner on this day was working correctly. For example, the very detailed records for each action of the scanner in question shows that during this boarding three other passengers also made the same mistake as [REDACTED] (they too were going to Chicago and not Detroit) and the scanner triggered the alert to Grievant that it was an "invalid flight number".

The more likely explanation as to why the same message was not triggered for [REDACTED] is the reader simply didn't register (scan) his mobile device as input.

Moreover, the only way for Grievant to have allowed [REDACTED] to board was a manual override. Indeed, it is easy to understand how she might have thought—with a quick glance during the onslaught of boarding passengers—that [REDACTED] [REDACTED] It is also noted that the message log shows all the messages the Gate Reader displayed to the Ops Agent for a given flight, including error messages, shows that the Gate Reader on Flight 1522 successfully scanned numerous other mobile boarding passes, all of which were recorded in the detail log. The accuracy of the scan log is also buttressed by the fact it shows the three passengers who immediately preceded the manual board of [REDACTED] had boarding numbers of A-23, A-24 and A-26 and that the three passengers who immediately followed the manual board had boarding numbers of A-28, A-27 and A-25. A.J.H. was in the A-24 position for his flight and thus the sequence fits the other circumstantial evidence that he was boarded manually. If [REDACTED] pass had scanned it would have shown up in the detail log.

The Union did point out that [REDACTED] indicated in his statement that he did not recall any problems with scanning his boarding pass. However, a quick key or mouse stroke by Grievant would not necessarily be noticed by him. Moreover, his hearsay recollection wasn't tested. Nor does a television show video about a botched refund directly relate to these facts. As for the P-count, it could have been in error and doesn't erase Grievant's prior errors.

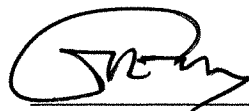
The evidence also shows Grievant blew through the error message that [REDACTED] had already boarded. It was careless to do so and that she did so further supports the conclusion that she came up short that day in her performance of her duties.

As for the quantum of discipline, it cannot be said that a Letter of Warning is an unreasonable penalty. While the similarity in names is at first blush mitigating, it cannot be a wholly rare occurrence. Indeed, Company Exhibit 2 (the passenger manifest) shows several common duplicated passenger last names just on this flight (Bell, Boyd, Davis, Flynn, Gray, Jones and Smith). The fact there are so many common passenger names is a signal that when an alert arises in connection with a common name, extra care is required.

In summary, the Grievant was careless resulting in a passenger misrouted and a Letter of Warning is not unjust.

AWARD

The grievance is denied.



Gil Vernon
Arbitrator

Dated this 3rd day of June, 2015.