Air Transport Local 591
Transport Workers Union of America, AFL-CIO
4005 Gateway Drive, Suite 200 Colleyville, Texas 76034
Office: 817-591-4290
Fax: 817-591-4291

August 1, 2023

RE: Arbitration's Update

Sisters and Brothers:

We have received the arbitrated decisions on the groups of grievances filed for both the Attendance Policy and the Holiday Pay (while on Military Leave, Unpaid FMLA, and Injury on Duty (OJI)) from the respective arbitrators.

We are pleased to say that we have very good news to report on the Holiday Pay Arbitration. More info on that decision is after the Attendance Policy explanation below.

While we were pleased with much of the relief provided in the Attendance Policy Arbitration decision, we were unfortunately not as fully satisfied with this decision as we had hoped. Arbitrator Bonnie Weinstock based her decision upon the evidence and testimony provided by the company, the IAM, and the TWU, throughout the arbitration. In her decision she awarded the following:

> *The grievance is sustained in part and denied in part in accordance with the Opinion herein. The Company has violated the M&R, MCT, MLS, MTS and Fleet Joint Collective Bargaining Agreements through its implementation and/or application of the November 15, 2021 Attendance Guidelines covering employees represented by the TWU-IAM Association insofar as: (a) additional points are assessed for absences of six days or more; (b) additional points are assessed for absences during the dates the Company labeled as "critical operations period" without a finding of pattern absence; and (c) the Guidelines do not reflect that there is discretion when deciding whether to assess discipline. Such decisions may benefit from having conversations with employees about their attendance. The Guidelines must be rewritten to cure the defects found in this Opinion and Award.*
>
> *The Company did not violate the JCBAs to the extent that the Guidelines provided for: (a) assessing a point for a legitimate illness; (b) assessing a point for failing to call out sick with appropriate notice; or (c) assessing points tor no call/no show.*
>
> *Any other claims raised in this proceeding that are not sustained herein are denied.*

We understand that many of you may have been under the impression that we negotiated that there be an attendance policy with no points at all, or for TWU Members that we negotiated an attendance policy that looked far less aggressive like what we in the TWU had previously. The Arbitrator, hearing facts and the testimony from the company, the IAM, and the TWU, was simply convinced otherwise. The most extreme parts of the previously imposed policy were rightfully struck down by the Arbitrator, and the company was ordered to rewrite what she termed as "defects" in those imposed guidelines and moving forward for that policy to comply with her ruling.

Looking at Arbitrator Weinstock's decision, it is obvious that we, as a Union and membership, must continue to remain vigilant. We must work to ensure the company complies with the decision, and that any discipline issued based on excessive points given and/or with the additional points on "critical operations period" be removed. We must move with unified focus, both members and representatives, to ensure that the company not use those wrongfully imposed points against our members moving forward. If you have had any additional points imposed from that imposed policy, please get with your Union representative to have that corrected.

While we did not get everything we wanted in this Attendance case, we did get a substantial positive amount from the overall ruling, which we believe is a step in the right direction, and this decision should help keep many of our members out of harm's way. We are grateful to Arbitrator Weinstock for those facets of the decision. We also wish to thank attorney Christina Gornail for her tremendous efforts with this case.

We also received notice today that we have achieved a complete victory in the Article 22 Holiday Pay while on unpaid FMLA, OJI, and Military Leave. Arbitrator Dana Eischen was rather direct in his conclusions of the impartial arbitrator as stated below:

> *1) The literal language of Article 22(A)(10) of the M&R JCBA, Article 22(A)(11) of MLS JCBA and Article 22(A)(12) of the Fleet Service JCBA gives meaning to what is contractually binding in those provisions, not anyone's expectations, hopes or undisclosed intentions.*
>
> *2) The bargaining history evidence in this case does not support the Company's thesis that experienced expert drafters of Article 22(A)(10) of the M&R JCBA, Article 22(A)(11) of MLS JCBA and Article 22(A)(12) of the Fleet Service JCBA implicitly agreed, or should be determined by this Board to have meant, that a past practice under different language in predecessor contracts, which was neither mentioned nor discussed by either Party in negotiations, should prevail over those plain words.*
>
> *3) Neither the literal common wording of Article 22 in the applicable JCBAs, nor any applicable canon of contract interpretation, nor bargaining history facts of record, nor any mutually binding past practice support the interpretation advanced by AA in this case.*
>
> *4) An arbitrator who ignores the clear-cut contractual language of those JCBA Article 22 provisions or legislates different language under the guise of arbitral interpretation would improperly usurp the role of the labor organization and employer negotiators.*

Arbitrator Eischen ruled as follows with his award:

> *1). The Association persuasively proved that American Airlines violated Article 22(A)(10) of the M&R JCBA and Article 22(A)(11) of the MLS JCBA with the TWU-IAM Association, as claimed in the seven (7) "individual grievances" (JX-4, 5, 9, 8, 10, 11 and 12), when it did not provide holiday pay to those named Grievants, each of whom was on an unpaid FMLA, military leave, or occupational injury (OJI) leave of absence on the day of the holiday.*
>
> *2). By stipulation of the Parties, this Phase I Merits determination of the grievances involving Article 22 (A)(10) in JX-1 and Article 22(A)(11) in JX-2 will be recognized, going forward, as the correct interpretation of Article 22 A(12) in JX-3.*

3). This Phase I arbitration did not address and our Phase I decision neither expresses nor implies any determination of the disputed issues appropriately presented by JX-6 or JX-7, per se.

4). Unresolved issues appropriately presented by the "fleet services grievances" identified as JX 6 and JX-7, as well as any unresolved disputes over the appropriate remedy for the "individual grievance" violations determined in ¶2, supra, will be heard and decided by this Board in Phase II of these bifurcated arbitration proceedings.

As the award reads, the Company was determined to be in violation of the M&R and MLS CBAs with their incorrect application of holiday pay for those situations. The award above is phase one of the arbitration and only applies to M&R and MLS. The forthcoming phase two determination is on the merits of the fleet service grievances presented. We do want to thank our attorney Holly Olivia-Van Horston for the work she did that led to this tremendous victory.

Looking at these two grievance cases, and the number of other grievances which are still waiting to be heard in arbitration, there is little doubt our employer is no longer the honorable “trust but verify” group that we once knew. Sadly, after seeing the actions of the company since bankruptcy, it is even more painfully clear that our employer has reached even new lows. Because of this, as a Union and a membership, moving forward we must together work from the position that whatever those in the company say or do, we must work together to double check and re-verify contractual compliance.

That said, even though we didn’t win everything we had hoped for in these two arbitration cases, overall, these are solid wins for Local 591 members. To be blunt, and more so with the Holiday Pay case, American Airlines tried to bully their way into gaining language that they did not negotiate, and this Local has, and will continue to fight American each and every time they try to violate our contract. We all fought hard for the language gains in our contracts. With that hard fought language, we are not going to allow the willful selective amnesia of some in the company, who were in negotiations, to steal a base and underhandedly try to take those hard-earned negotiated wins. Your Local 591 Executive Board has and will continue to defend these contracts, as these two arbitration wins prove that the solid pressure this Local continues to apply is working.

With the 2025 contract negotiations early openers barely thirteen months away, we are also determined to build upon the gains made with the attendance guidelines to get to a truly just policy for our Members in the next round of negotiations. Like the recently announced contract success with the Pilots, where the company basically said they will simply raise revenue to pay for their contract, we need to adopt that same mentality and keep that in mind as we approach the next round of negotiations, and with your support we will be successful.

On behalf of your unified Executive Board

Fraternally:

Gary Schaible
President
TWU Local 591