

AMERICAN AIRLINES

and

**ASSOCIATION OF PROFESSIONAL
FLIGHT ATTENDANTS**

ARBITRATION OPINION & AWARD
Susan R. Brown, Arbitrator

SS-34-2000-IMA-1, Randy Trautman et al

DATE OF AWARD: 28 June 2001

RECEIVED

JUN 29 2001

System Board of Adjustment:

For the Company: Emily Johnston

For the Union: Jeff Bott

Neutral Chair: Susan R. Brown

APFA
System Board of Adjustment
By 

Appearances:

For the Company: Mario Silvestri, Human Resources Representative
Cathie Sarria, Counsel, Field Human Resources

For the Union: Julie Moyer, SEDR
Patt A. Gibbs, SBA Advocate

Date of hearings: 15 February 2001

Location of hearings: AA Headquarters, DFW

BACKGROUND

As is true in any workplace, staffing during the Christmas-New Year's holidays tends to be difficult. In 1999, the IMA Base Manager created a task force to review Flight Attendant absences during the holiday period. Different Flight Service Managers (FSM) were assigned to review absences each day from 20 December through 1 January according to guidelines he issued. These stated in pertinent part:

- Identify new names from the sick list of the day before and using the following parameters determine if additional steps are necessary:
 - Previous Christmas absences?
 - Scheduled to fly on 25th and 31st?
 - Sick in conjunction with VC?
 - Plan clear date past 31DEC99?

(JX 2)

The FSMs filled out a work sheet for any Flight Attendant who was absent and met these criteria. If the FSM knew of personal circumstances of any Flight Attendant that indicated that no abuse was likely (e.g., maternity leave, long term illness, a death in the family, etc.), no action was taken. Other Flight Attendants on the sick list were called at home. If they gave explanations that, in the FSM's opinion, meant no abuse was likely (e.g., in the process of applying for FMLA, recent surgery, the employee sounded genuinely ill, etc.), no further action was taken. If no such explanation were offered, the FSM orally issued a Medical Certificate Requirement (MCR) to the Flight Attendant. Of the 176 Flight Attendants on sick leave during the holiday period, 36 received MCRs.

The Union grieved this IMA procedure as a blanket MCR. The parties stipulated that MCRs may be imposed only when abuse is suspected¹. As a corollary to this requirement, the parties agreed that "blanket" MCRs may not be issued.

¹ Flight Attendants may be required to provide medical documentation in other circumstances, such as fitness for duty and lengthy absences under the AA Attendance policy, none of which are pertinent to the issue before us. They may also choose to provide documentation in order to reduce the charged number of occurrences.

OPINION

The parties' presentations indicated some confusion and disagreement about the meaning of certain words used routinely in the discussion of sick leave abuse. Before we analyze the particular events at issue here, let us clarify the definitions so that we can have a mutual understanding of how the monitoring of sick leave may occur.

The first is the word "pattern". When this word is used in the context of sick leave abuse, "pattern" may refer only to the history of an *individual* Flight Attendant, not to any group of Flight Attendants or any particular time period. For example, the high rate of absence during a holiday period is not a "pattern" of sick abuse, merely a high rate of absence.² For an Flight Attendant to be charged with a pattern of sick leave abuse, only the history of that particular Flight Attendant may be considered.

The second word is "blanket", as in "blanket MCR". The word blanket does not refer only to the circumstance where every single Flight Attendant on sick leave at a given base is issued an MCR; a blanket can have several shapes and sizes and still remain a blanket. A group of MCRs issued to Flight Attendants based on one or more criteria, irrespective of an individual's personal history and circumstances, is also a blanket. An example of this type of blanket would be if an MCR were issued to all Flight Attendants who used sick leave on a given Friday.

Let us turn then to the Christmas 1999 events at IMA. Management is entitled to monitor abuse during periods of high absenteeism; it would be naïve of us to believe that sick leave abuse is not also higher during those periods. The task force to review employees' records and the use of worksheets is therefore not improper.

² Patterns of absence *among* employees, for example during a job action, is not at issue here.

The key to detecting abuse, however, is in each employee's personal record. For example, an employee who had a history of past absences during the Christmas-New Year's holidays gives management a reason to suspect possible abuse and to request an MCR. This is perfectly reasonable management oversight.

The mere timing of an absence, however, for example during a holiday time or in conjunction with vacation or other leave, is not sufficient to generate an MCR without some evidence of a "pattern" in that employee's record or other indication of possible malingering. An employee, for example, who had a perfect attendance record and then used sick leave from 23 to 26 December displays no pattern giving rise to a suspicion of abuse, despite the timing of the absence. If that same employee, however, had attempted to trip trade for those dates and had been unsuccessful, suspicion aroused by such action could, even absent a pattern, justify an MCR.

Once a Flight Attendant's record has been reviewed, a supervisor should take no action if no evidence of abuse exists, either a pattern of absence or other indicators as discussed above. No action, in such cases, includes not calling such Flight Attendants at home about the Flight Attendant's medical status. Calling in such circumstances to inquire about suspicion of abuse is one example of an improper blanket.³ Testimony from witnesses and the directive issued to the holiday attendance taskforce indicate that some Flight Attendants were improperly caught under a blanket MCR. At least one Flight Attendant appeared to have received an MCR for his or her absence during the pertinent period despite a perfect attendance record. The reasons for issuing at least some of the MCRs were not documented. Supervisors must be clear about the reasons they suspect abuse before taking action.

³ As noted, we are discussing here only suspicion of abuse situations. Nothing should be inferred one way or the other about other circumstances under which a Flight Attendant may be called at home.

Those Flight Attendants issued MCRs without legitimate reasons for the suspicion of abuse are entitled to relief; those where such suspicion was documented in the record are not. Relief may consist of having the Flight Attendant's record changed to delete all references to an MCR for that absence as well as, in some cases, reimbursement for documented out-of-pocket expenses incurred for doctors' visits. Such expenses could include extraordinary transportation costs, medical co-pays, and unreimbursed doctor's fees. Flight Attendants who went to the doctor for reasons other than having received an MCR, to substantiate Family Leave, for example, are not eligible for reimbursement. Eligible Flight Attendants must produce receipts in order to receive payment.

The Board has reviewed the records of all Flight Attendants who received MCRs at IMA for the Christmas-New Year's holiday period in 1999-2000 and finds that they fall into five categories:

- Grievance denied – record remains unchanged;
- Reference to MCR to be deleted from personnel records – reimbursement provided for eligible, documented expenses;
- Reference to MCR to be deleted from personnel records – employee not eligible for reimbursement;
- Reference to MCR in personnel record changed to reflect a 30-day duration letter – employee not eligible for reimbursement;
- No reference to MCR found in employee's personnel records – reimbursement provided for eligible, documented expenses;
- No reference to MCR found in employee's personnel records – employee not eligible for reimbursement.

It is important to note that the Board has altered the records of employees for different reasons, depending on the individual circumstance revealed by the evidence presented.

AA/APFlight Attendant, Blanket MCR

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AWARD

To the extent that the Company issued MCRs based on the timing of absences during the 1999 holiday period and not on the individual circumstances of the Flight Attendant involved, those MCRs constituted a "blanket" requirement and violated the guidelines for issuing medical certificate requirements under the Company Attendance Policy.

Various categories of relief are available to certain Flight Attendants as set forth in the award above. To protect the privacy of individual Flight Attendants, the eligibility of each Flight Attendant is listed according to a numbered list agreed upon by the parties:

Grievance denied – record remains unchanged

Flight Attendant #s 6, 7, 10, 12, 14, 15, 20, 21, 22, 23, 24, 29, 31, 32, 34, 36, 37

Reference to MCR deleted from personnel records – reimbursement provided for eligible, documented expenses

Flight Attendant #s 2, 3, 5, 16

Reference to MCR deleted from personnel records – not eligible for reimbursement

Flight Attendant #s 8, 19, 25, 28, 30, 33, 35, 38

Reference to MCR in personnel record changed to reflect a 30-day duration letter – not eligible for reimbursement

Flight Attendant #s 9, 26

No reference to MCR in personnel records – reimbursement provided for eligible, documented expenses

Flight Attendant #s 1, 4

No reference to MCR in personnel records – not eligible for reimbursement

Flight Attendant #s 13, 18, 26

Eligible Flight Attendants must provide the Company with documentation of expenses within 60 days of the date of this award in order to be reimbursed.


Dated: 6/28/01

Concur

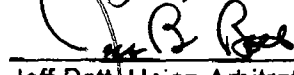
Dissent

Concur

Dissent


Susan R. Brown, Neutral Arbitrator


Emily Johnston, Company Arbitrator


Jeff Bott, Union Arbitrator