Southwest Airlines facing $2.3M in labor fines in Arizona

Employees say they got warnings in their personnel files for taking paid sick time

By: Anne Ryman

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PHOENIX — An administrative law judge has upheld more than $2.3 million in fines against Southwest Airlines after the state's labor department says the company retaliated against Arizona workers for taking paid sick time.

ABC15 first reported on the issue two years ago when aircraft mechanics began filing complaints, alleging retaliation. They say they were given warning letters in their personnel files for using paid sick time that they earned.

The state's labor department investigated and said the actions were against state labor law. Southwest disagreed and asked for a hearing before an administrative law judge. That judge recently sided with 18 of the employees.

New York-based attorney Lee Seham, who represents six of the employees, said the employees were given warning letters upon taking their 10th day of sick leave within 12 months, even though Southwest's policy allowed them to earn and bank thousands of hours of sick leave over the years.

He said the job of an airline mechanic is particularly demanding.

"Aircraft mechanics, as a group, are not prima donnas," he told ABC15 in an interview Friday. "They are shoulder to the wheel, nose to the grindstone, get her done, get that aircraft back in an airworthy condition, so the passengers are not delayed. They don't call in sick unless they are really, terribly ill."

Southwest Airlines tells ABC15 in a statement that the judge's decision may ultimately force the airlines to reduce their generous leave policy.

"The Administrative Law Judge's decision penalizes Southwest for providing a more-generous leave policy than Arizona state law requires and sets a dangerous precedent that will harm Southwest Employees and other employees in Arizona. This decision may ultimately force Southwest to reduce our generous leave policy and eliminate the flexibility provided to Employees," the statement said.

Southwest goes onto say, "The proposed fines in this case, which exceed $2 million, violate Constitutional principles of due process especially when considering zero employees were terminated or lost wages. Southwest plans to appeal this erroneous decision and defend our right to treat Employees more favorable than state law."

In legal filings, a union official with the Aircraft Mechanics Fraternal Association testified that Southwest began disciplining employees for taking sick leave around November 2022. The union said the warning letters "constituted an abrupt change" in practice with the company counting absences for legitimate illnesses and injuries toward the nine days that triggered the discipline.

The state's labor department has maintained that Southwest Airlines is subject to the Fair Wages and Healthy Families Act, a ballot initiative passed by voters in 2016. The law requires employers to provide paid sick leave and makes it illegal to retaliate against them for using that accrued leave.

Southwest, however, contends that the bargaining agreement between the company and the union is subject to federal labor laws, which the airline contends preempts many state and local laws.

Seham, the attorney for several employees, said the fines continue to accumulate by about $18,000 for every week the issue is unresolved. He said more aircraft mechanics have since come forward to file complaints with the state the lawsuit began.

"It's not only a legal issue. For me, it's a moral issue," Seham said. "If someone worked hard over many years and earned something, you should pay it. I think it's the only honorable thing to do."