

I will stand my ground, and I won't back down, Part 2



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Last month, I began a story about a postal inspection service investigation of a letter carrier in Fairbanks, AK, who had been accused of criminal misconduct. The carrier had strongly denied doing anything wrong and agreed to take a polygraph test to prove it. However, immediately prior to taking the exam, one of the postal inspectors read him his Miranda rights, so his steward, Tanya Vakhrusheva, advised him to speak to a lawyer. This prompted the inspector to bellow at Tanya that she did not have the right to speak during the meeting and that, if she persisted, he would remove her from the room. He also threatened her, saying that the last steward who did so was “under investigation.” At that point, the carrier spoke up and requested to speak to a lawyer. When we left off, the inspector had told the carrier he could leave the room but ordered Tanya to remain.

With the carrier out of the room, the inspector, who was built like an NFL linebacker, got in Tanya’s face and proceeded to scold her. But Tanya, who is about 5’4” and maybe 120 pounds after a big meal, was not intimidated.

PI: You need to understand what your rights as a union steward are. I’m going to tell you flat out, I’m not playing games. You have the right if he asks you to talk to him. When he comes in here and talks to me, the only time you are to speak is if he turns to you and says, “I don’t understand” or asks you for advice. You do not interject in this process. I’m making it very clear. Alright? I know the union rules.

Tanya: (*calmly*) So do I.

PI: And I’m letting you know right now, you’re out of line. And I’m telling you also, just for your benefit, this has all been audio- and video-recorded. Everything is always audio- and video-recorded to make sure I don’t violate anyone’s rights. And so next time you come in here and I’m in here, or another polygraph examiner is in here, you *only* speak if the postal employee asks you a question. Now, you can leave the room because I’m done with you.

At this point, Tanya replied “OK” and left.

As I pointed out last month, pretty much everything the inspector said to her is not true. On page 17-7, the JCAM states:

In a Weingarten [investigatory] interview the employee has the right to a steward’s assistance—not just a silent presence. The employer would violate the employee’s Weingarten rights if it refused to allow the representative to speak or tried to restrict the steward to the role of a passive observer.

Tanya knew this, but rather than get into a heated argument about it, she kept her cool, calmly asserted what

needed to be said, and let the inspector make a videotaped fool of himself. She knew that the inspector was the one who had overstepped his bounds and that by trying to relegate her to the role of a passive observer, he had violated the carrier’s Weingarten rights and her rights as a steward.

So one of the first things she did after leaving the meeting was to request a copy of the inspector’s videotape. Not surprisingly, management denied her request, so she filed a grievance. Unable to obtain it at Informal or Formal A, she appealed the case to the Step B Team, who ordered the Service to provide it. With the tape in hand, the union filed a complaint with the National Labor Relations Board. While this was going on, management had gone ahead and terminated the carrier based solely on what his accuser had claimed. So Tanya filed a grievance on that, too.

About six months later, the NLRB and the Postal Service reached a settlement wherein the Service acknowledged it had violated the carrier’s Weingarten rights and agreed that none of the information gained from the inspection service interviews could be used against him, and that they would remove that information from his files and would inform him in writing when it was done. Additionally, USPS agreed to post a notice for all employees that included the following language:

WE WILL NOT deny your right to have a union steward present to actively participate in and counsel you at any investigatory interview.

WE WILL NOT threaten to eject the Union steward from the meeting room because of his or her active participation in the investigative interview.

WE WILL NOT speak to the Union steward in a derogatory or dismissive manner because of his or her active participation in the investigative interview.

WE WILL NOT threaten the Union steward, through use of hand motions or body posture or position, or any such similar actions, as a result of his or her active participation in the investigative interview.

So what happened to the carrier? After the grievance on his termination was filed, it proceeded up the steps and was certified for arbitration. Through her investigation, Tanya discovered that the individual on whose accusations management had based the carrier’s termination had a prior criminal conviction for making false accusations in a police report. When the union brought this information to management’s attention, the Service recognized that its case had fallen apart and returned the carrier to work with all back pay.

Although it took nearly a year for all this to transpire, in the end, justice was served. Were it not for the steward standing her ground and not backing down, things could have turned out much differently. Somewhere, Tom Petty is smiling.