

**Administrative Hearing
PSR 470501**

Heard on March 31, 2015

Summary of Facts

The person named as the customer in the complaint appeared by telephone and identified himself by presenting via facsimile a government issued photographic identification card. The operator named in the complaint appeared personally and was identified as the operator named in the complaint by their patch number which matched the 311 call complaint, by matching the physical description given by the customer and by the audio-video record of the incident. The operator stated as well that he recalled the voice of the customer on the speakerphone utilized for the hearing to be that of the customer. The customer claims that the operator stopped the bus four to five feet forward of the stop instead of directly at the stop after the customer waived to the bus with his cane he uses for mobility assistance. The customer tapped the bus door with the to signal his presence and desire to board the bus. The customer claims that the operator opened the door a few inches and closed it a few times and asked repeatedly if the customer really wanted to board, having thought that the customer was waiving the bus off with his cane instead of flagging down the bus with his cane when he waived it. The customer asked to board and did so without further incident. The customer claims that the operator was rude and provoked further adverse verbal engagement but that the customer avoided this by declining to further converse with the operator.

Rule

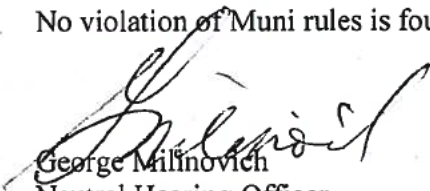
Polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other. *San Francisco Municipal Railway Rules and Instructions Handbook, Rule 2.8.1*

Discussion

There is no evidence that the operator drove the coach in question out of the parameters of established procedure. Stopping four to five feet ahead of the bus stop does not constitute a substantial variation from procedures, especially in light of the fact that there were two other buses in the vicinity which could have been causal factors in the small deviation mentioned. The union representative stated that the partial opening of doors is not possible as described by the customer. This representation was confirmed by other personnel at Muni not connected with nor aware of the hearing. The video and audio record did not include the incident in question so the testimony of the parties is the only evidence. The customer denied that the operator used any profane words or made any references to the customer's disability. Although less than congenial behavior was exhibited by the operator on the date in question, no evidence exists of any verbal discourse on the part of the operator which would rise to the level of inappropriate behavior contemplated by the rule cited above. No violation of the rule against inappropriate behavior by the operator in dealings with the customer is found.

Decision

No violation of Muni rules is found.



George Millnovich
Neutral Hearing Officer

March 31, 2015

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI? X	Other Disc.
Trapeze Line/Route 33 STANYAN		Direction OUTBOUND
Incident Date 02-13-2015		Incident Time 16:10
Vehicle Number 5400		Location CALIFORNIA STREET (3838 CALIF
Department POT OPS		Division POTRERO
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details Waited for the 33 for my trip to fulton street. Bus approached in right lane flanked by two other bus lines (28L and 1). I held my cane overhead and waved to him to stop. He continued on and stopped past the designated stop. When door didn't open as I approached I tapped the rear door to signify my approach. Once I arrived at door he refused to open the door explaining that I must have been waving him off. He seemed to open the door on two occasions; slamming it each time before I could board. I had to plead with him to open door so that I could continue my journey. Not sure why he was angry or what point he wanted to prove but he seemed to get enjoyment by being difficult and fulfilling what I could only construe to be a vindictive nature. Yes, I am displeased and disturbed by this behavior.</p> <p>02/27/15 2:44PM I called Woods Division to confirm the Operator for this ADA complaint with Hearing requested. Per Gladys at Woods, Francisca Tapia is gone for the day. sk</p> <p>02/27/15 2:56PM I emailed a copy of the PSR to Francisca.Tapia@sfmta.com of the Woods Division. sk</p> <p>3-11-15 NO RESPONSE BACK FROM PATRON, will close now-efl</p> <p>03/16/15 Patron left a voicemail over the weekend asking that I call him per previous conversation to arrange for a Hearing. NOTE: Can this PSR please be reopened? Possibly called before Hrg invite was sent. sk</p> <p>03/18/15 10:31AM I left message to voicemail returning the Patron's voicemail. I mentioned apr 01 as a potential date . sk</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 02-13-2015		
Date Closed 04-07-2015		
Resolution Code [REDACTED]		

OVERVIEW							
PSR #	471649	INCIDENT DATE	03/03/15	DATE RECEIVED	03/03/15		
LINE/ROUTE	1	LOCATION	CLAY ST/ POWELL ST				
HEARING DATE	03/30/15	HEARING TIME	1:30PM	HEARING LOCATION	1 SOUTH VAN NESS, _3RD_FLOOR RM _3071_		
FORMAT (check box)				In person?	<input type="checkbox"/>	By phone?	<input checked="" type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	<i>Juan Coleman</i> <i>Arthur Jaballa</i> <i>(Charles Richardson)</i>		Division	Presidio		
HEARING OFFICER	Name	<i>H. Epstein</i>		Telephone Number	[REDACTED]		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>			No	<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?			
		No	<input type="checkbox"/>				
COMMENTS							
<p><i>See attached NO disability or non-disability rule violation</i></p>							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<p><i>H. Epstein</i></p>				<p><i>April 2, 2015</i></p>			

Neutral Hearing, regarding alleged Disability-Related and other Rule Violations

Room 3071, 11 South Van Ness, San Francisco, CA 94103

March 30, 2015

PSR 471649

██████████ ["Patron"]

██████████ ["Operator"]

Juan Coleman ["Union Representative"]

Incident Date: March 3, 2015

Incident Time: 8:45 AM

Route: 1 Fulton, Outbound

Location: Clay/Powell Street

I. PATRON'S DISABILITY STATUS

Patron stated that he was an old man; that he has cancer; and that he cannot run for a bus. He testified that he does not use a wheelchair or use a cane, or otherwise show signs of disability.

II. UNCONTESTED FACTS

Operator identified himself as the driver during this incident.

Patron stated, and Operator admitted that Patron was waiting at the top of the bus stop, near the intersection, for the 1 California. They agreed that Patron was the sole person waiting at the time of the incident. They agreed that Operator by-passed Patron and proceeded through a green light to a spot on the other side of the intersection where Operator let off a few passengers. Finally, they agreed that the bus was crowded.

III. DISAGREEMENT

Patron believed that Operator deliberately by-passed him to make the green light and chose to stop on the other side of the intersection rather than at the legitimate bus stop. Patron was upset that he had to wait 8 minutes for the next bus and was late for work.

Operator denied that his motive was to make the green light. He stated that he believed that he was allowed to skip a stop if he had a "standing load," the case here.

He further testified that no one had pulled the stop cord as he approached the intersection, but then "someone hollered," and he stopped on the other side to permit that passenger to de-board.

Operator's testimony was not entirely credible. If there were only one person at the bus stop, it was unclear why Operator could not have boarded him, even if his bus was crowded.

However, Operator was not out of compliance with the Rules.

IV. HEARING OFFICER ANALYSIS

A. WAS THERE A DISABILITY RELATED RULE VIOLATION?

A finding of a disability-related violation requires that the conduct complained of is based on a disability.

Even if Patron had a disability, as he asserted, Operator's conduct toward Patron was not predicated his disability. Patron's disability was not apparent and Operator did not by-pass him because of his disability.

FINDING 1

By a preponderance of the evidence, there was not a disability-related Rule violation in this case.

B. WAS THERE A NON-DISABILITY RELATED RULE VIOLATION?

Although Operator was not completely credible regarding his reason for not stopping to pick up Patron, his conduct was consistent with Rule 4.17.1(b):

4.17.1 Operators on Cable Cars, coaches, and electric cars, in revenue service, or on pull out and pull in trips, are to stop for intending passengers, when there is room enough to board, except as follows:

b) When coach or electric car is loaded to capacity

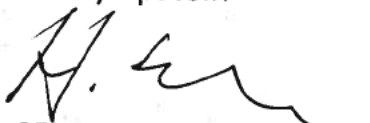
FINDING 2

By a preponderance of the evidence, there was not a non-disability-related Rule violation in this case.

V. HEARING OFFICER ADMONITION

Operator should be aware in the future that by-passing passengers at bus stops may substantially inconvenience them and make reasonable efforts to board them.

Henry Epstein



SFMTA Hearing Section

April 2, 2015

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 1 CALIFORNIA		Direction INBOUND
Incident Date 03-03-2015		Incident Time 08:45
Vehicle Number 5581		Location CLAY ST POWELL ST SAN FRANC
Department PRE OPS		Division PRESIDIO
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details Disabled patron stated two buses passed him by both buses did not stop at the bus stop instead both operators decided to go through the green light and stop at non bus stop to let people off the bus the first 1 California bus went by at 8:42AM then the second 1 California bus went by at 8:45AM coach #5581 patron now late to work.</p> <p>03/13/15 4:10PM</p> <p>Patron called to express interest in a participating in a Neutral Hearing by telephone. sk</p> <p>03/16/15 11:05AM</p> <p>I called Patron to schedule a Neutral Hearing. sk</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 03-03-2015		
Date Closed 04-07-2015		
Resolution Code [REDACTED]		

**Administrative Hearing
PSR 472571**

Heard on April 28, 2015

Summary of Facts

The person named as the customer in the complaint appeared by phone. The operator named in the complaint appeared personally as did a union representative. The customer suffers from a disability and used a leg brace on the date in question. The customer satisfactorily identified the operator present as the operator present and involved in the incident. The operator present is present according to the video record. The customer claims that on the date in question the operator refused to kneel the bus sufficiently to accommodate her need to board as a disabled person. A video and audio record of the incident was viewed at the hearing. The customer declined an offer to receive the video-audio record.

Rule

Operators must lower the kneeler on kneeler-equipped vehicles at any time requested and at stops where the kneelers use would aid passengers in boarding. (Rule 4.20.4 *Rules and Instructions Handbook, San Francisco Municipal Railway*)

Discussion

The video and audio record revealed visually as well as by sound (the distinct beeping emanated by the kneeling device) that the kneeling apparatus was engaged and operated normally when the customer boarded. The union representative stated that the steps cannot be lowered partially: rather the steps are either thoroughly engaged or not at all. No evidence exists to suggest that the customer was not accommodated as contemplated in the rule cited above or in deviation from normal Muni practice.

Decision

No violation of Muni Rules is found. No violation of the Americans with Disabilities Act is found. The complaint is found to be invalid.

George Milinovich
Neutral Hearing Officer

May 1, 2015



CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 207 REF KNEEL/LOW
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 2-3 CLEMENT - JACKSON		Direction OUTBOUND
Incident Date 03-19-2015		Incident Time 07:15
Vehicle Number 8195		Location SUTTER ST MONTGOMERY ST S,
Department KIR OPS		Division KIRKLAND
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details patron stated that this happens often , she is disabled and wears a brace, and the driver can see she uses a brace, she asks the driver to lower the steps and he refuses to lower the steps, he tells her, this is as lower as it gets, or that she can get up, but cannot to claim up to the bus, and she always have to demand for the driver to lower the steps and at the end he gets the steps lower for her to get on the bus, she notice that when a blind person that is usually there the driver lowers the steps without anyone asking him to lower the steps because the blind man is his friend and he lowers the steps for the blind person when the blind man gets off the bus as well. Patron stated that this is an ongoing issue that has gone on for the last 2 months.</p> <p>04/03/15 12:08PM Patron states that this is an ongoing issue. For the past 3 months. Per Patron, Operator refuses always refuses to lower the stairs/ lift for her. Patron uses a brace. Patron noticed that the Operator lowers the stairs/lift for a blind Patron but when she asked it is a problem. Operator does not lower all the way. Patron avoids that bus which she uses to get to work to avoid the negativity she experiences on her way to work. Patron would like to participate in a TELEPHONE Hearing. so not to miss work. sk</p> <p>04/16/15 I scheduled the telephone NH with the Patron. Appt is scheduled in the Appointment book. Change action type to Hearing Pending. The Hearing paperwork hasnt been processed and will shift to yh per mw. sk</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 03-19-2015		
Date Closed 05-04-2015		
Resolution Code [REDACTED]		

**Administrative Hearing
PSR 469595**

Heard on April 29, 2015

Summary of Facts

The person named as the customer in the complaint appeared personally. The person named as the operator in the complaint personally appeared in the company of a union representative. Each party acknowledged being acquainted with the other party. The customer is disabled. The customer claims in the 311 telephone complaint logged in on February 5, 2015 and re-affirmed at the hearing that at or about 2:00pm on February 3, 2015, the operator drove by him while he was waiting at the bus stop in question without stopping. At the hearing on several occasions the customer claimed that he boarded the operator's bus on the date and time in question and that the operator used profane and insulting language toward him. The operator stated that he did not see the customer at the bus stop on the date in question and passed up the stop. The complaint was logged in on February 5, 2015. On March 3, 2015, the customer called stating that he is interested in participating in a hearing. No audio-video record of the incident is available. On March 11, 2015, the customer called the agency again to request that the claim of profane and insulting speech used by the operator against the customer be made part of the complaint.

Rule

Cars and coaches will stop at all designated stops where passengers are waiting to board or alight between the hours of 6:30a.m. and 8:30p.m. *Rules and Instructions Handbook, Rule 4.16.1 (in pertinent part)*

Polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other. *Rules and Instructions Handbook, Rule 2.8.1*

Boisterous, profane or vulgar language is forbidden. *Rules and Instructions Handbook, Rule 2.8.2*

Issue 1

Did the operator violate the rule prohibiting the passing up of a passenger on the date in question?

Issue 2

Did the operator violate Muni rules prohibiting disrespectful language and requiring polite behavior with regard to the customer?

Discussion

The customer was afforded the opportunity to aver, modify or withdraw the complaint at the opening of the hearing. The customer averred the complaint that he had been passed up. During the hearing, the customer unequivocally and repeatedly claimed in contradiction to his own re-affirmed claim to have been boarded by the operator during which event the operator verbally harassed him using terms of profanity and insult with regard to sexual identity.

Because of the mutually contradictory assertions made by the customer in the initial 311 complaint and at the hearing: that the customer was passed up by the bus as well as insulted with profane language while on board the vehicle on the date in question, the claimant is found to have not presented a credible claim as to either being passed up (Issue 1) or having being verbally insulted (Issue 2) on the date in question.

Decision

No violation of Muni Rules is found. No violation of the Americans with Disabilities Act is found. The complaint is found to be invalid.

George Milinovich
Neutral Hearing Officer

7 May 2015



CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 31 BALBOA	Direction INBOUND	
Incident Date 02-03-2015	Incident Time 14:00	
Vehicle Number 5516	Location HYDE ST EDDY ST SAN FRANCIS	
Department PRE OPS	Division PRESIDIO	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details driver drove by and did not stop at the stop. In the past he has stopped the bus and when disabled patron requested for the lift he would close the door and move on. Disabled patron wants a hearing and wants a phone call.</p> <p>(Per Patron, during follow up phone call 03/11/15 he added that the Operator called him a motherfucking faggot. He wants this to be included in his report and presented at the hearing. sk)</p> <p>02/13/15 9:31AM I emailed a copy of the PSR to wallace.johnson@SFMTA.COM of the Presidio Division to ID the Operator. sk</p> <p>02/13/15 10:00AM I spoke with Wallace Johnson at Presidio asking that he/ the Division ID the Operator. sk</p> <p>03/03/15 3:10PM Patron called stating that he is interested in participating in a In Person Neutral Hearing. Wednesdays are most flexible per Patron. sk</p> <p>03/04/15 12:01PM I left a message to Patron's voicemail to coordinate a Neutral Hearing. Per Patron, Wednesdays are most flexible. I listed Wed. 03/18 and 3/25 @ 11AM asking that he return my call to coordinate a time that works best for him. sk</p> <p>03/05/15 9:00AM Patron called to agree to Hearing 03/18/15 @11am. Patron asked if he can bring his ADA rep. sk</p> <p>03/11/15 10:25AM Per Patron, he added that the Operator called him a motherfucking faggot. He wants this to be included</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 02-05-2015		
Date Closed 05-08-2015		
Resolution Code [REDACTED]		

**Administrative Hearing
PSR 472611**

Heard on May 5, 2015

Summary of Facts

The person named as the customer in the complaint appeared personally. The person named as the operator in the complaint personally appeared in the company of a union representative. The customer suffers from a disability which the customer claims is not apparent. The customer verified that the operator present was the operator who was the subject of the complaint. The customer claims that when he arrived at the forward boarding area of the bus, the operator closed the doors on him as if she would not allow him to board. Once on board, the customer claims that he tagged his Clipper Card several times on the device and that the operator was rude in telling him that payment from his card had already been processed. He also claims that when there was a delay in progress of the bus, the operator did not inform him of the nature of the delay and that the customer hesitated to request information from the operator as to the nature of the delay because he felt he would be mistreated.

Rule

Polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other. (Rule 2.8.1 *Rules and Instructions Handbook, San Francisco Municipal Railway*)

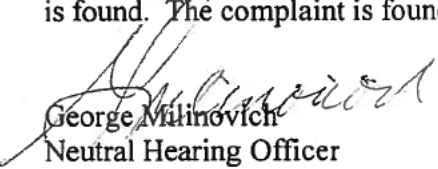
Discussion

The customer raises the issue as to whether the operator violated the rule cited above in her engagement with the customer at two points: prior to boarding and when he was tagging his Clipper Card. The audio-video record was reviewed during the hearing without the audio functioning properly. Subsequent to the hearing, the audio-video record was reviewed with the audio functioning normally. Consistent with the testimony of the operator, there is no evidence in the audio-video record of rude behavior or speech by the operator. Specifically, the doors are seen to close after admitting other passengers who had arrived prior to the customer and then immediately re-open to admit the customer without verbal altercation between the customer and operator. When the customer repeatedly swiped his Clipper Card hearing triple tones each time after payment had already been effected (single tone), the operator informed the customer that the time hadn't expired (after payment had been made evidenced by the single tone). The operator is heard on the audio-video record to address the customer in a mannerly tone of voice consistent with Muni rules.

The customer claims that he was not informed as to why the delay occurred. Since there is no Muni rule requiring an announcement as to the reasons for delay, no justiciable issue was raised by this claim.

Decision

No violation of Muni Rules is found. No violation of the Americans with Disabilities Act is found. The complaint is found to be invalid.


George Milinovich
Neutral Hearing Officer

6 May 2015



CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 31 BALBOA	Direction INBOUND	
Incident Date 03-19-2015	Incident Time 20:00	
Vehicle Number 5605	Location [REDACTED] TUE/	
Department PRE OPS	Division PRESIDIO	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details ADA Patron states "When we got on the bus the driver was very rude. We are disabled, and we got there within 3 seconds and the driver closed the doors on us as if she wasnt going to let us on. When i put my clipper card to the transponder a few times she said stop doing that, it already read your card. She didnt have to be that rude about that to us. Then, around eddy and jones there was a delay for about 5-10 minutes and the driver wouldnt tell us what the delay was. She was so rude that we didnt want to ask her what the issue was because we didnt want to be treated that way again."</p> <p>04/07/15 1:20PM [REDACTED] followed up to Post -It note left for me to schedule this Hearing. sk</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 03-19-2015		
Date Closed 06-09-2015		
Resolution Code [REDACTED]		

**Administrative Hearing
PSR 473393**

Heard on May 26, 2015

Summary of Facts

The person named as the customer in the complaint appeared by telephone. The person named as the operator in the complaint personally appeared in the company of a union representative. The customer is disabled. The customer described satisfactorily the operator present at the hearing as the operator involved in the events which gave rise to the complaint. The operator was unable to identify the customer on the telephone. The customer complained that the operator ignored the customer's request for a stop and stopped at the next bus stop instead of the stop requested by the customer. The customer complains that disembarking at the next stop caused him physical stress by requiring him to walk back to his requested stop. The request was made by pulling the cord which is utilized for the purpose of requesting a stop. Subsequently, the customer requested that the operator stop by oral request. An audio-video record of the incident was viewed at the hearing.

Rule

Cars and coaches will stop at all designated stops where passengers are waiting to board or alight between the hours of 6:30a.m. and 8:30p.m. *Rules and Instructions Handbook, Rule 4.16.1 (in pertinent part)*

Issue 1

Did the operator violate the rule requiring the compliance with a customer request for a stop?

Discussion

The operator denied any knowledge of passing up the stop. There is no evidence of any prior interaction between the operator and the customer. The customer is seen in the video to pull the cord requesting a stop. The audio portion of the record is clear and devoid of any sound associated with the stop request (no bell or other tone is recorded). Additionally, the forward facing interior camera view of the bus is reflective of no evidence of the stop requested sign nor the operator's dash light illuminating. The preponderance of the evidence supports finding that the operator did not have notice to stop at the requested stop by the audio and visual signs designed for that purpose and stopped on the oral request of the customer at the stop immediately following that request. Accordingly, the operator is excused from following the rule by reason of impossibility of compliance with the customer's request.

Decision

No violation of Muni Rules is found. No violation of the Americans with Disabilities Act is found. The complaint is found to be invalid.


George Milinovich
Neutral Hearing Officer

27 May 2015



CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 202 IGN STP REQUEST
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 38 GEARY		Direction INBOUND
Incident Date 04-03-2015		Incident Time 20:10
Vehicle Number 6204		Location MASONIC AVE GEARY BLVD SAN
Department FLN OPS		Division FLYNN
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details Patron stated" I just ring the bell at Masonic and Geary and then I tried to get off at ST. Joseph, she just ignored it and I even knock at her window she ignore it and I can see that a stop sign was requested, I can see the bottom and the stop sign was pushed she just ignore and said huh. I complain at Divisadero and Geary and she say Oh I did not hear and the problem is Im disable senior passenger and I had to walk up two blocks from the hill and I had to go to the hospital right now and I have a heavy back and real difficult time to climb up the hill".</p> <p>4-23-15 @ 10:01 AM I called and spoke to him given his address for the hearing procedure-efl</p> <p>-@ 10:11 AM patron called and said that it will be hard for him to go out for he is very sick and will not be able to come out to attend the hearing. i have mentioned to him about the telephone hearing that we offering too and he said in this case he will be requesting to have the telephone hearing then. I told patron that as soon as he received the invite to tell that he would like to have the telephone hearing procedre as I have noted to reminded the patron and the hearing coordinator-efl</p> <p>5-4-15 Patron called to schedule Phone Hearing-PV</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 04-03-2015		
Date Closed 06-09-2015		
Resolution Code [REDACTED]		

Neutral Hearing, regarding alleged Disability Rule Violation,

Room 3071, 11 South Van Ness, San Francisco, CA 94103

May 26, 2015

PSR 473456

██████████ ["Patron"]

██████████ ["Operator"]

Juan Coleman ["Union Representative"]

Incident Date: April 3, 2015

Incident Time: 8:15 AM

Route: 1 California, Outbound

Both Patron and Operator identified each other as parties to the incident.

The Patron, Operator, and his Union Representative viewed the tape at the hearing.

██████████ attended the hearing to support his friend ██████████

PATRON's ALLEGATIONS

Patron testified that he approached the 1 California bus at Clay and Drumm waving his RTC disability card in view of Operator through the front window. However, when he got to the front door where the bus had stopped and was loading two women passengers, the driver closed the door and Operator refused to transport him. According to Patron, this happened despite the fact that he banged on the door and said, "Let me on, I'm disabled."

Patron further testified that when the bus made a right turn onto Drumm, he was hit on the torso by the side of the bus. According to Patron, as it turned right, the middle of the bus extended over the sidewalk and hit him, causing him injury, for which he later sought treatment. He submitted medical records dated April 3,

2015 at 1:28PM noting follow-up treatment for a contusion and a diagnosis of "Motor vehicle collision."

Patron also filed a police report and a complaint with the SF City attorney's office.

II. OPERATOR'S TESTIMONY

Operator denied seeing Patron crossing in front of his bus and testified that he had completed servicing the stop when Patron first appeared. He argued that even if he had seen Patron cross in front of him, there was no way of knowing where Patron was going, or whether he was a rider. He denied seeing Patron wave his RTC disabled card in front of him.

Operator testified that he made a "button hook" turn and at no time did his bus make contact with Patron.

III. THE DVD

The DVD showed the following:

The bus is stopped at the corner. The Operator opens the front door. Two women who are at the stop get on and Operator closes the door. As he is pulling out from the stop Patron crosses in front of him. He can be seen through the front windshield. It is not clear that he is flashing his RTC card. His hands appear to be in his pockets. The bus is pulled away from the curb and begins a right turn. Patron approaches the side of the bus as it is turning. Knocking is heard somewhere on the bus. The bus completes the turn and Patron turns around and walks in the opposite direction, where the bus had been, not where it is going. There is no frame that shows the bus making contact with Patron.

HEARING OFFICER ANALYSIS

The DVD does not support Patron's allegation of a pass up rule violation. Operator completed servicing the stop before Patron crossed over in front of his bus and had already closed the doors and pulled away from the curb when Patron appeared at the bus stop. He had no obligation to stop the bus to service this passenger at this point. Moreover, this is not a disability-related violation.

Operator was operating according to MUNI rules and guidelines. Even if this had been a pass up, and it was not, Operator did not leave the stop prematurely to avoid picking up a disabled passenger. It is not at all apparent from the DVD that Operator even knew that Patron, who ran in front of his window, was disabled. "Let me on, I'm disabled," is not heard on the audio of the DVD.

Thus, Operator did not deny Patron access on the basis of Patron's disability as required to find disability-related rule violation.

Patron also complained of an encounter with Operator at the end of the line, where Patron later confronted him for allegedly injuring him. He believed Operator made an admission of having hit him by telling him, "At least I didn't knock you over," and laughing.

Because of the lack of video evidence that the bus hit Patron, the hearing officer declines to evaluate this statement, hearsay in any event, and denied by Operator.

Patron argued that the video should not be dispositive because it likely had gaps in it. He testified that he used to teach video and that 30 frames per second was a standard in the industry whereas the SFMTA video was one frame per second, so it may have missed recording him being hit.

The hearing officer rejects this argument. Patron offered no evidence to support his contention regarding standard frames per second, and the video appeared continuous from the many angles showing on the screen.

FINDING

By a preponderance of the evidence, this incident does not constitute a disability-related rule violation.

Respectfully yours,

Henry Epstein


SFMTA Hearing Section, May 29, 2015

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 213 GEN DSTRACT DUTY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 1 CALIFORNIA		Direction OUTBOUND
Incident Date 04-03-2015		Incident Time 08:15
Vehicle Number 5509		Location CLAY & DRUMM/DRUMM
Department PRE OPS		Division PRESIDIO
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details The driver of the bus refused me entry and then hit me with the bus and drove away. I have photos of the bus and the driver. The buss on board cameras should have record of the entire incident. There are too many detail to write here and I am in pain.</p> <p>04/16/15 9:00AM Patron left a voicemail asking for status on a hit and run he reported where according to him he was hit deliberately by the Operator. Patron had to go to the Hospital and he has Hospital called regarding this hit and run.</p> <p>5-4-15 @ 3:41 PM I called and spoke to him and said he is still in a lot of pain and said that he was hit on purpose/felony assault accdg to him and mentioned he was holding his disabled pass and even told the operator pretending didn't see him. Patron is adding that he made a police report and the Case no. is #150294195 - efl</p> <p>05/13/15 9:10AM I forwarded vmail to pv and I called Patron acknowledging receipt of his message (after retrieving voicemails to my dir ext) with Patron expressing interest in participating in a hearing. sk</p> <p>----- 6-1-15 the hearing invite letter came back for it says that it is not deliverable as addressed for there supposedly with Apt #A-805 per [REDACTED] when his confirmation was sent out-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 04-06-2015		
Date Closed 06-26-2015		
Resolution Code [REDACTED]		

**Administrative Hearing
PSR 474224**

Heard on May 26, 2015

Summary of Facts


The person named as the customer in the complaint appeared personally and identified himself by presenting a government issued photographic identification card. The operator named in the complaint failed to appear. The customer suffers from a disability which is not immediately apparent. A union representative was present at the hearing. The customer stated that he had knocked on the exterior of the bus to alert the operator that he wished to board as he was running to catch the coach after the operator had closed the doors to the coach. The customer complains that the operator complained to the customer about the knocking on the exterior of the coach in a disrespectful manner.

Discussion

There is no evidence of any reference to the disability of the customer in the speech of the operator. Nor, is there any evidence that the operator's conduct was prompted by the disability of the customer. Accordingly, the facts in this matter fail to present a violation of the Americans with Disabilities Act.

Decision

No violation of the Americans with Disabilities Act is found.


George Milinovich
Neutral Hearing Officer

June 2, 2015

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 44 O SHAUGHNESSY	Direction OUTBOUND	
Incident Date 04-17-2015	Incident Time 17:30	
Vehicle Number 8424	Location PALOU & 3RD/	
Department WDS OPS	Division WOODS	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details Passenger stated "44 was at the light at 3 & Palou, I was running up to catch the coach. Driver had just closed her door, I knocked on door respectfully, I am disabled. Once I got on the bus, the coach driver complained about me knocking on window. I respectfully address the coach driver but driver continue to talk to me in a disrespectful manner. I tried to encourage driver to let it go but she went on & on about me conversing & referencing to say whatever she wanted to. I told her that I also had the right to address the coach driver. I said based on the way you are talking to me, I will file a complaint & she said go ahead & file a complaint. I have experienced quite a bit of discourteous behavior especially by [REDACTED]</p> <p>4-21-15 email copy of the PSR to shahin.shaik@sfmta.com for video pull copy-efl</p> <p>04/29/15 12:14PM I spoke with Gladys at Woods requesting the Division confirm the Operator. sk</p> <p>5-5-15 email and mail Follow-up T6 Complaint-efl</p> <p>05/14/15 11:38AM I spoke with Gladys at Woods. Per Gladys, Francisca is in a meeting. I informed Gladys the PSR/ ADA complaint with Hearing requested for Patron Mr. Lett was closed 5/13. MCS requesting a response by end of day as to why the PSR with Hearing request was closed as instructed by edl. sk</p> <p>05/14/15 12:36PM I emailed a copy of the PSR to Francisca.Tapia@sfmta.com ad Gladys.Carey2@sfmta.com at Woods Division. sk</p> <p>5/14/2015 2:08 PM Sent from: Carey, Gladys M <Gladys.Carey2@sfmta.com> cc Tapia, Francisca</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 04-17-2015		
Date Closed 06-09-2015		
Resolution Code [REDACTED]		

Neutral Hearing Officer Report on ADA PSR# 473270

The hearing was rescheduled from 5/18/15 and was conducted at 10:30 AM on 6/1/15.

Patron's testimony: Boarded 67 bus at 24th and Mission at 7:55 PM on Monday 3/30/15. Two people pulled cord requesting stop but did not get off. One was young man who immediately indicated it was a mistake. The other was a young woman who later apologized more than once for having requested the stop. At Ripley and Alabama operator told everyone to get off. Said "I'm shutting the bus down" It was about 8:15 -8:20 PM. Operator did not get back on bus until quarter to nine. Patron waited with at least 10 other people. Operator was wearing jacket – could not see her badge number. Patron asked operator for her badge number and to call supervisor – operator refused. Bus continued at quarter to nine. Patron had no alternative but to wait- could not walk home from stop location. Patron could not navigate steep hill because of disability and could not call cab.

Operator's testimony: Apologized for incident Had experienced "stop request pranking" on prior Mondays. On 3/30/15 became so distracted because of the "pranking" stopped bus – was fearful would sideswipe a vehicle if continued the run. Called Central Control to report occurrence. Central Control advised her to stop bus and open doors Was waiting for supervisor when decided could continue. Did not refuse to give badge number. Muni jacket was torn that day – wore her own jacket.

Union Representative's testimony: Operator is new employee. New employees are instructed to call Central Control if not feeling safe or unsure how to proceed. Operator had experienced "stop request pranking" on prior Mondays.

Neutral Hearing Officer Findings:

No ADA violation. The operator's behavior, while unprofessional, was not directed at disabled passengers. An operator refusing to continue to operate the bus for perceived safety reasons is no different than a bus breaking down. All passengers, including disabled passengers, have the option of waiting for a replacement bus or in this case a replacement driver. My investigation could find no record of any calls to Central Control by the operator at the time the incident took place. Although it is clear the operator was upset due to the "stop request pranking", the failure to call Central Control and the operator's refusal to provide her badge number are serious violations of Muni rules.

Mike Hanrahan

Neutral Hearing Officer 6/29/15



CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE	Type 211 UNAUTH STOP/DLAY	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 67 BERNAL HEIGHTS	Direction OUTBOUND	
Incident Date 03-30-2015	Incident Time 20:30	
Vehicle Number 8519	Location 24TH ST MISSION ST SAN FRANC	
Department WDS OPS	Division WOODS	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details Patron states I want to file a complaint, we were on the bus and two people pulled the bell by mistake - the bus driver become unprofessional, she was screaming and yelling at the passengers. She made a phone called and then got off the bus and said she was not going any further. The driver stopped at the top of a hill; there were disable passengers, people trying to get home. I am disabled and could not walk down those hills to get home. I asked for her employee number and she refused to give her employee number, she did not have a complete uniform on, she was wearing a black jacket and brown cap. I ride buses everyday; I can not catch a cab at this location. It is very frightening to have a driver stop at the top of a hill, in the dark and tell you she is not going, if she can handle people ringing the bell in error then she shouldnt be driving. I have a witness, [REDACTED]</p> <p>[REDACTED]</p> <p>04/24/15 11:00AM</p> <p>I spoke with Neil Weingarten at Woods. Neil asked that I call him back because he was in an employee conference. sk</p> <p>04/28/15 1:12PM</p> <p>I spoke with Gladys at Woods. I asked that the Division ID the Operator for the ADA complaint/ with Hearing requested. I also mentioned the action type selected is conferenced. No Operator ID. sk</p> <p>04/28/15 9:56AM</p> <p>Per Gladys at Woods, Operator, [REDACTED] as been Identified. sk</p> <p>5-5-15 Patron called to schedule ADA hearing, forwarded to Yusmine-PV</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 04-01-2015		
Date Closed 07-01-2015		
Resolution Code [REDACTED]		

**Administrative Hearing
PSR 474920**

Heard on June 17, 2015

Summary of Facts


The person named as the customer in the complaint appeared personally at the hearing and was satisfactorily identified as the person filing the complaint. Neither the operator named in the complaint nor a union representative appeared at the hearing. The customer is disabled. The customer claims that the operator refused to kneel the bus to accommodate the boarding of the customer. The customer states that the operator informed her that the bus was too full to utilize the kneeling function. The customer stated that the bus had empty seats at the time and that there were from four to six standees in the bus at the time and hence the bus was not at nor exceeding capacity.

Discussion

The customer made a clear and cogent assertion that the operator failed to provide her a reasonable accommodation which is provided to the disabled as part of routine transit practice and hence a creditable and un rebutted claim under the Americans with Disabilities Act.

Decision

A violation of the Americans with Disabilities Act is found.


George Milinovich
Neutral Hearing Officer

June 24, 2015

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 207 REF KNEEL/LOW
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 29 SUNSET		Direction OUTBOUND
Incident Date 04-30-2015		Incident Time 13:50
Vehicle Number 8445		Location NA/
Department WDS OPS		Division WOODS
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details Patron states: 1:50pm, 29OB, I asked the driver to lower the lift for me to get on. He refused because there were a lot of people on board which is not true. There are only 5 people standing on the bus. I have a disability and I am wearing a boot on my leg. Driver was [REDACTED] dark brown glasses, and short hair cut. Vehicle number was either 8445 or 8454.</p> <p>5-18-15 @ 8:47 AM I called Woods Div and spoke to Gladys given the report # to confirm the operator for Francisca is in the meeting-efl</p> <p>6-3-15 @ 11:12 AM Patron called to schedule her hearing-, will give the message to Yus-efl</p> <p>7/21/15: Not Title VI, box has already been unchecked. KLB</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 04-30-2015		
Date Closed 06-26-2015		
Resolution Code [REDACTED]		

OVERVIEW							
PSR #	471638	INCIDENT DATE	03/01/15	DATE RECEIVED	03/03/15		
LINE/ROUTE	43	LOCATION	FOREST HILL STATION				
HEARING DATE	04/27/15	HEARING TIME	2:30PM	HEARING LOCATION	1 SOUTH VAN NESS, _3RD_FLOOR RM _3072_		
FORMAT (check box)				In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Laferrita Jenkins		Division	Kirkland		
HEARING OFFICER	Name	H. Epstein		Telephone Number	[REDACTED]		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input type="checkbox"/>		
	No	<input type="checkbox"/>		No	<input checked="" type="checkbox"/>		
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?				
	No	<input type="checkbox"/>					
COMMENTS							
<p>Per video & testimony from Patron: operator was justified, for safety reasons, to bar patron from boarding the ramp unless she was in her wheel chair, or boarded patron first and had someone help her with her wheel chair, if available. In this case operator lowered</p>							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<p><i>[Signature]</i></p> <p>Signature of Neutral Hearing Officer</p>				<p>4/30/2015</p> <p>Date</p>			

The ramp on boarding and dis-boarding and Patron was accommodated. However, operator was rude to Patron. 3C-PPT-1 (6/20/09)



CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 43 MASONIC	Direction INBOUND	
Incident Date 03-01-2015	Incident Time 17:50	
Vehicle Number 8115	Location FOREST HILL STATION/	
Department KIR OPS	Division KIRKLAND	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details Patron stated "I am a partial disable and when the bus come , he put the lift down and the bus driver shout at me sit, sit in your wheel chair, if I sit push my wheel chair on a downhill the wheel chair run like crazy. I hold my wheel chair walk with, when they put lift down, he told me I have to sit in my wheel chair to board the bus and I told him its very hard for me to sit in the wheel chair and push my self up onto the lift, it takes ots of strength and Im not that strong. The driver will not let me do that he said he will notlet me board and a man heard all those things and he will push me onto the lift and he stood behind me and pulled me on the lift. The driver said the wheelchair is to sit not to walk. He told me you should use a walker then and on my way down I will get down from the wheelchair Another passenger help me down".</p> <p>03/13/15 11:00AM Per Deborah, DIV is not required to interrupt service and send Operator when a No Merit/ No Violation has been determined. Per Deborah, the Union Rep can be present in lieu of the Operator. The Patron was not refused service. Deborah will change the action type to hearing Required. Relayed this info to pv. sk</p> <p>03/25/15 3:40PM I spoke with Patron. Patron wants to participate in an In Person Neutral Hearing. Patron would like the Hearing Invite resent. Patron would like a report of the incident details sent as well. (i.e. Trapeze.com report). Regarding scheduling, Mondays and Wednesdays work best in the afternoon for the Patron. Wednesday, 4/8/15 does not work for the Patron. sk</p> <p>04/08/15 11:04AM Patron called to schedule an In Person Neutral Hearing. Patron and I agreed on Monday, 4/27 @ 2:30PM. sk</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 03-03-2015		
Date Closed 05-08-2015		
Resolution Code [REDACTED]		

OVERVIEW

PSR #	474114	INCIDENT DATE	4-15-15	DATE RECEIVED	4-15-15
LINE/ROUTE	17	LOCATION	19 th Ave. and Winston St.		
HEARING DATE	July 15, 15	HEARING TIME	1:00pm	HEARING LOCATION	1 So. Van Ness Ave. 3 rd FL RM 3075

FORMAT (check box)		In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[Redacted]	Cap ID	[Redacted]	
UNION REP	Name	Siegfried Henderson	Division	WOODS	
HEARING OFFICER	Name	H. Epstein	Telephone Number	[Redacted]	

HEARING LOGISTICS

ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	By telephone Union Rep? conference	<input checked="" type="checkbox"/>
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input type="checkbox"/>	
	No	<input type="checkbox"/>		No	<input checked="" type="checkbox"/>	
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?			
	No	<input type="checkbox"/>				

COMMENTS

Patron testified credibly that she asked Operator to lower the steps because of the fact that she was wearing a boot for her foot. She stated that Operator told her to go to the back door. When she repeated her request to lower the steps, he drove

HEARING OUTCOME

Valid	<input checked="" type="checkbox"/>	Invalid	<input type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
-------	-------------------------------------	---------	--------------------------	---------	--------------------------	-------------------	--------------------------

Signature of Neutral Hearing Officer: *H. Epstein*
Date: 7-15-2015

off after closing the front door. Operator denied driving the coach at the time Patron complained of the incident. It states he was in the area (cont. on next page)

However, Nextbus shows his coach at the site of the incident, 196 & Winston Street, outbound, within minutes of the incident at 8:48 PM. ^{see attached} Furthermore, Paton positively identified Operator at the hearing as being the driver during the incident.

Since Operator declined to testify, the weight of the testimony, Paton's credible statements, corroborates her complaint. He offered no controverting evidence, and his only defense, that he was not the driver, failed.

Finding: Operator violated
disability-related Rule 4.20.4, attached.

H. Epstein

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 207 REF KNEEL/LOW
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 17 PARKMERCED		Direction OUTBOUND
Incident Date 04-15-2015		Incident Time 20:48
Vehicle Number		Location 19TH AVE WINSTON DR SAN FRA
Department WDS OPS		Division WOODS
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details Run number: 274.</p> <p>Patron states: I asked the driver if he could let the lift down and he told me to get on in the rear. It should be a courtesy to let it down if someone asks. I think it is very rude and disrespectful. I have a disability pass and I had a cast taken off about an hour ago on my left leg. Even when I had my cast I had to ask drivers to drop the lift.</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 04-15-2015		
Date Closed		
Resolution Code [REDACTED]		

**Administrative Hearing
PSR 474761**

Heard on July 14, 2015

Summary of Facts

The person named as the customer in the complaint appeared by telephone and was satisfactorily identified as the customer who lodged this complaint. The operator appeared in person and was satisfactorily identified as the operator named in the complaint. A union representative was present. The customer accurately described the operator present at the hearing. The customer filed the complaint on behalf of his minor child who is disabled. The customer claims that his son boarded the vehicle with a small blanket around the son's neck and that the blanket provides security to his son. The customer claims that the operator demanded that the child remove the blanket from his neck, addressed the customer in a rude and impolite manner and refused to operate the bus until the blanket was so removed. The customer removed the blanket from his son upon which his son began crying. The customer informed the operator that he would lodge a complaint against the operator and that the operator replied using vulgar speech.

Rule

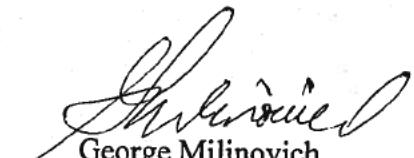
Polite, respectful behavior is required of all employees in their dealings with the public, their subordinates and each other. *Rule 2.8.1 Rules and Instructions Handbook, S.F. Municipal Railway*

Discussion

The evidence supports finding that the operator addressed the customer in a manner which violated the Muni rule cited above. There was no evidence submitted to suggest that the operator knew the child was disabled. There is no evidence to support a finding that the conduct of the operator referred to, nor was connected in any way to the customer's disability. Accordingly, the violation of the Muni rule above mentioned does not constitute a violation of the American with Disabilities Act.

Decision

No violation of the Americans with Disabilities Act is found.


George Milinovich
Neutral Hearing Officer

July 15, 2015

Remarks

A demand was made at the hearing by both the operator and the customer for a copy of the audio-video record of the incident. The hearing officer informed them that no such record is available and that effort is made as part of the preparation of every ADA hearing to obtain such a record.

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 301 DISCOURTESY
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 14 MISSION	Direction INBOUND	
Incident Date 04-28-2015	Incident Time 06:27	
Vehicle Number 5422	Location MISSION AND 21ST /	
Department POT OPS	Division POTRERO	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details PATRON STATES HE GOT ON THE BUS WITH HIS SON, PATRONS SON HAD A BLANKET AROUND HIS NECK, PATRON STATES THE DRIVER SAID HE DID NOT LIKE BLANKETS ON THE BUS, PATRON STATES HIS SON IS MENTALLY ILL, PATRON STATES THE BLANKET IS A SMALL BLANKET, PATRON STATES THE DRIVER SAID HE DOES NOT KNOW WHERE THE BLANKET HAS BEEN, PATRON STATES DRIVER REFUSED TO MOVE THE BUS UNTIL PATRON TOOK THE BLANKET FROM AROUND SONS NECK AND THE SON STARTED CRYING. PATRON STATES THE DRIVER PROVOKED THIS INCIDENT, PATRON STATES THE DRIVER THEN STARTED WALKING UP AND DOWN THE AISLE OF THE BUS LOOKING AT PATRONS UP AND DOWN TO FIND SOMETHING. PATRON STATES HE TOLD THE DRIVER THAT HE WOULD BE CALLING 311 TO COMPLAIN AND THE DRIVER SAID HE DID NOT GIVE A SH** THEY WILL NOT BE ABLE TO FIND ME.</p> <p>5-14-15 @ 12:56 PM I called and spoke to patron stating it's about the ADA that he is requesting a hearing given his address for [REDACTED] because he will be on vacation that he said he wanted to make sure he will received the letter and in addition I mentioned to him that we do phone hearing that when he decided and received this letter to inform MCS right a way-efl</p> <p>yh 6-1-15 called to reschedule ada hearing left message @4:05pm</p> <p>6-2-15 @ 9:57 AM Patron called back because of the message received to pls give him a call back tomorrow after he was told that the person in-charge is off today-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 04-28-2015		
Date Closed 07-17-2015		
Resolution Code [REDACTED]		

OVERVIEW					
PSR #	476521	INCIDENT DATE	5-26-15	DATE RECEIVED	5-26-15
LINE/ROUTE	1	LOCATION	California St. and Arguello Blvd		
HEARING DATE	Oct 7, 15	HEARING TIME	1:00pm	HEARING LOCATION	1So. Van Ness Ave. 6th FL RM 6041
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?
				<input type="checkbox"/>	
OPERATOR	Name	[REDACTED]	Cap ID	[REDACTED]	
UNION REP	Name	[REDACTED]	Division	PRESIDIO	
HEARING OFFICER	Name	H. Epstein	Telephone Number	[REDACTED]	
HEARING LOGISTICS					
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?
		<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes
		No	<input type="checkbox"/>		<input type="checkbox"/>
					No
					<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input checked="" type="checkbox"/>	If yes, why?	Operator failed to show at previous hearings
		No	<input type="checkbox"/>		
COMMENTS					
operator failed to show. Patron and Union Rep. viewed DVD of incident. Operator asked Patron if he wanted to wait for the next bus. Patron is in wheelchair. Patron replies "No." Despite Patron's reply, Operator tells him that the bus behind "is" "not 1/2 as full"					
HEARING OUTCOME					
[REDACTED]			Dropped	<input type="checkbox"/>	To be rescheduled
				<input type="checkbox"/>	
[Signature]			10/7/15		
Signature of Neutral Hearing Officer			Date		

and says "just take it" and shuts the door leaving Patron on sidewalk. The bus, though somewhat empty.

crowded, is capable of boarding Patron in his wheel chair and seating him.

Findings

1. Operator denied Patron accommodation on the basis of his disability.
2. Operator violated Rule 4.20.5 *
3. Operator violated Rule 4.17.1

* although Patron does not make an audible request (on the DVR) for Operator to lower the lift, he evidently and obviously has no other way to board, and he holds himself back on the sidewalk so that the lift can deploy safely, but Operator does not deploy it.

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 1 CALIFORNIA		Direction OUTBOUND
Incident Date 05-26-2015		Incident Time 16:34
Vehicle Number 5518		Location CALIFORNIA ST ARGUELLO BLVD
Department PRE OPS		Division PRESIDIO
Employee ID [REDACTED]		
Employee Physical Description		
<p>Incident Details Per Muni patron. I want to file a complaint. It was exactly 4:34 PM. He was an elderly black guy, mid to late 60s. That particular one, the first one, I would like a hearing on. The first one pulled into zone and opened the door. It was kinda crowded but no one was standing. He told me to wait on the next coach cause he was crowded. He said Do you want to wait? And I said No, I dont. He said Well gonna have to wait. There is another one coming. He shut the door in my face. If I didnt have option, why ask me? If there was no room, then I would understand. But there was room. I guess he just wanted me to wait for the bus behind. But that bus he didnt pull into the zone. He had another operator as if he was being instructed. Me and another lady were waiting and he just passed us right on by. Then a third bus passed, bus 3585, but he was full. Im in a wheelchair. There are more drivers than not that pull this game. They are rude to people in wheelchairs. Unnecessarily rude. The coach number is</p> <p>5518..it is now going IB...thats the one that passed me outbound. Im positive.</p> <p>-----</p> <p>Received: Tue 6/9/2015 3:49 PM From: Johnson, Wallace <Wallace.Johnson@sfmta.com></p> <p>Elvie, here's the information requested # [REDACTED] Operator [REDACTED]</p> <p>-----</p> <p>6-17-15 @ 1:05 PM patron called to schedule the hearing to pls give him a call back, message was given to Yus-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 05-26-2015		
Date Closed 10-28-2015		
Resolution Code [REDACTED]		

Neutral Hearing Officer Report for PSR# 476734

2 Complaints

1st Complaint: Patron stated she was waiting for the bus sitting on a fire hydrant and was in the bus stop and moving towards the bus when it stopped and the bus did not wait for her – a “pass up”. Another passenger on the bus [REDACTED] agreed that the Patron had been passed up and said she had told the operator at the time that Patron wanted to get on the bus.

The operator stated it was a flag stop at Revere near Third and that he would not have passed up Patron if she had been in the bus stop.

Although requested, there is no video available for this portion of the route.

Neutral Hearing officer finding: No ADA violation; insufficient evidence of a “pass- up” at the Revere flag stop.

2nd Complaint: Patron and fellow passenger [REDACTED] had to get off the bus at the Operator’s insistence. Operator’s Supervisor and responding police officers did not have the benefit of viewing the video when they asked Patron and [REDACTED] to get off the bus.

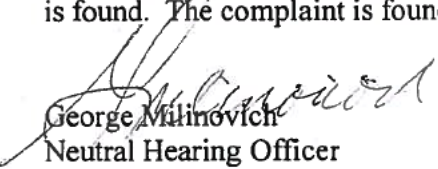
Neutral Hearing Officer finding: No ADA violation. The behavior of Patron and [REDACTED] did not warrant their removal from the bus. There were no physical threats or intimidation, no foul or abusive language, and their voices were raised no louder than the Operator’s. They remained in their seats throughout.

Mike Hanrahan

Neutral Hearing Officer

Decision

No violation of Muni Rules is found. No violation of the Americans with Disabilities Act is found. The complaint is found to be invalid.


George Milinovich
Neutral Hearing Officer

6 May 2015

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 54 FELTON		Direction OUTBOUND
Incident Date 05-26-2015		Incident Time 16:30
Vehicle Number 8730		Location 3RD ST WILLIAMS AVE SAN FRAN
Department WDS OPS		Division WOODS
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details Patron states: I was sitting on the fire hydrant waiting for the bus and as he was coming I walked to the beginning of the bus zone. As he turned the corner he just kept going, so I was yelling at him to get on the bus. He slowed down and I tried to run as fast as I could because I have a back issue and he took off again. He stopped at the next bus stop and I tried to catch up again running, he just took off again. When I finally got on the bus at Van Dyke I asked him why did he pass me up and he said I should be happy that he was letting me on the bus at all there. I sat down, and the other patrons said they told him to stop for me. I said I looked at you and I know you saw me. He pulled the bus to a stop and told me he didnt like my attitude and to get off of the bus. I told him I was not going to get off and he called the supervisor. He was trying to say things to me to get me to react, but I would not react. We sat there and I felt bad for the other patrons that we were waiting and I was going to get off anyway. The driver said "can you get off of this bus so we can go?" A supervisor pulled up and he told that supervisor that he felt threatened and I was being combative. But the other patrons said no. 3 other people came and stuck up for me for how wrong the driver was. At that point the police came, and they went to the supervisor and then they came on the bus to talk to the driver. The driver wanted me and the another patrons that were sticking up for me to get off of the bus.</p> <p>Received: Tue 6/9/2015 4:10 PM From: Tapia, Francisca <Francisca.Tapia@sfmta.com></p> <p>The Operator name is confirmed, however the date is not correct. And per video pulled has no merit</p> <p>6-11-15 @ 8:42 AM I called and left a vm given the report # if interested of hearing procedure and if this an ADA report to call back to sched the hearing-efl</p> <p>-this is a wrong date given by the patron: -efl</p> <p>WDS 218 1 [REDACTED] 12:47p 12:47p 8:54p 8:54p 5408 8730 0 7:40a 8:54p [REDACTED] 05-26-15 9:59a</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 05-30-2015		
Date Closed		
Resolution Code [REDACTED]		

**Administrative Hearing
PSR 474864**

Heard on June 9, 2015

Summary of Facts

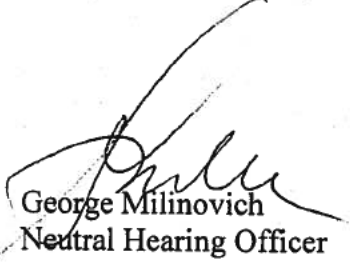
The person named as the customer in the complaint appeared by telephone and was satisfactorily identified. The operator named in the complaint appeared with a union representative and was identified as the operator named in the complaint by showing his Muni employee badge. The customer is disabled. The customer was seated in a location which needed to be cleared for another boarding customer using a larger size electric wheelchair. The customer claims that the operator, in his effort to relocate the customer, touched the customer causing the customer to feel intimidated. The customer claims that he filed the complaint because two other riders encouraged him to do so.

Discussion

No claim of denial of accommodation nor any claim of insult either physical or verbal with reference to the customer's disability nor which would have a disparate impact on a disabled person is made. Hence, no claim justiciable under the American with Disabilities Act exists under the facts in this case.

Decision

No violation of the Americans with Disabilities Act is found.


George Milinovich
Neutral Hearing Officer

June 18, 2015

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT	Type 302 ALTERC: EMP/CUST	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 14 MISSION	Direction INBOUND	
Incident Date 04-29-2015	Incident Time 10:45	
Vehicle Number 5440	Location MISSION AND 30TH STREET/	
Department POT OPS	Division POTRERO	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details The ADA Patron Stated: "This driver touched me and he pushed me at the same time. I have nothing against african american people but this is the way he treated me. It also happened because there was someone who was going to get on the bus with a wheelchair and I was in a seat next to disabled passengers. When i got up to go further back, when he touched me, he pushed me and he was in a real bad mood. Because of that anger it left me with a stomach ache and pain in my chest. I am disabled and I am 54 years of age. I have two witnesses.</p> <p>When I was getting off the bus, the driver was clowning me by saying "dont touch me" because thats what i told him."</p> <p>5-14-15 @ 3:16 PM I called and left a message given his PSR # to call back if interested of hearing procedure-efl</p> <p>@ 3:48 PM patron called and said he was touched by the operator and gave his address for interested of hearing procedure-efl</p> <p>6-15-15 NO RESPONSE BACKL FROM PATRON, will close now-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 04-29-2015		
Date Closed 06-15-2015		
Resolution Code [REDACTED]		

OVERVIEW

PSR #	473483	INCIDENT DATE	4-6-15	DATE RECEIVED	4-6-15
LINE/ROUTE	1	LOCATION	Sacramento St. and Franklin St.		
HEARING DATE	June 16, 15	HEARING TIME	12:00pm	HEARING LOCATION	150. Van Ness Ave. 3 rd FIRM 3072

FORMAT (check box)		In person?	<input type="checkbox"/>	By phone?	<input checked="" type="checkbox"/>
OPERATOR	Name	[REDACTED]	Cap ID	# [REDACTED]	
UNION REP	Name	Juan Coleman	Division	Presidio	
HEARING OFFICER	Name	H. Epstein	Telephone Number	[REDACTED]	

HEARING LOGISTICS

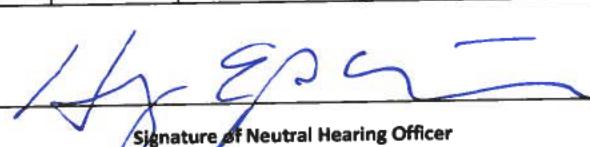
ATTENDANCE	Customer?	<input type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input checked="" type="checkbox"/>	
	No	<input type="checkbox"/>		No	<input type="checkbox"/>	
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?			
	No	<input type="checkbox"/>				

COMMENTS

See attached - No disability - related rule violation but violation of Rule 2.8.1 discourtesy

HEARING OUTCOME

Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
-------	--------------------------	---------	-------------------------------------	---------	--------------------------	-------------------	--------------------------

	June 26, 2015
Signature of Neutral Hearing Officer	Date

Neutral Hearing, regarding alleged Disability Rule Violation,
Room 3072, 11 South Van Ness, San Francisco, CA 94103

June 16, 2015

PSR 473483

██████████ ["Patron"]

██████████ ["Operator"]

Juan Coleman ["Union Representative"]

Incident Date: April 6, 2015

Incident Time: 16:20

Route: 1 Fulton, at Sacramento and Franklin

There was no video of this incident

I. PATRON'S Testimony

Patron's initial testimony was that Operator was reluctant to lower the lift and board her on an incline, stating safety reasons. However, Patron acknowledged that Operator did lower the lift for her and she was able to board the bus. She also testified that he lowered the lift for her to disembark.

Finding 1

By a preponderance of the evidence there was no disability-related Rule violation: Patron was accommodated.

Patron testified that Operator threatened to tell other drivers not to lower the lift for her and laughed at her after she boarded. She alleged that Operator told her that he "would never pick her up again at Franklin Street and other drivers won't." Patron stated that she was afraid other drivers would not accommodate her in the future. She depends on MUNI for work and groceries.

Patron's testimony appeared credible. She acknowledged being slow to board and to disembark and apologized for it, which was unnecessary as she is entitled to use of the lift. She praised other drivers who "are very good to me" and expressed reluctance to make false allegations against this Operator.

Patron also testified that Operator challenged her regarding whether she had paid the fare.

II. OPERATOR's Testimony

Operator testified to the dangers involved in lowering the lift on an incline, but said that he nevertheless did so for this Patron, even if he believed other, especially newer drivers who stuck to the letter of the rules, would not. Operator denied threatening to not to lower the lift for Patron in the future or telling her that other operators would also refuse to lower the lift for her.

Operator testified credibly about the dangers involved with lowering the lift where the stop was at an incline.¹ However, Operator stated that he would be sure to accommodate Patron with the lift in the future.

Finally, Operator denied challenging Patron regarding whether she had paid the fare.

Although it is not clear that threats regarding future service were made by Operator, or that he challenged her regarding paying the fare, Patron was credible regarding the Operator being discourteous to her by laughing at her and embarrassing her on the bus.

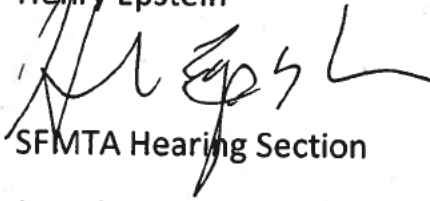
Finding 2

By a preponderance of the evidence, Operator violated Rule **2.8.1**:

Polite, respectful behavior is required of all employees in their dealings with the public...

_____ the Union Representative testified that he would contact MUNI to determine if it were feasible to put a control stop in the intersection at Sacramento and Franklin to provide a level area for safely lowering the lift.

Henry Epstein

A handwritten signature in black ink, appearing to read 'H Epstein', written over the printed name and affiliation.

SFMTA Hearing Section

June 26, 2015

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE	Type 201 PASSUP/DIDNT W8	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 1 CALIFORNIA	Direction OUTBOUND	
Incident Date 04-06-2015	Incident Time 16:20	
Vehicle Number 5580	Location SACRAMENTO ST FRANKLIN ST :	
Department PRE OPS	Division PRESIDIO	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details Patron states "Yesterday he told me he would never let me on at that stop again because I have a walker. He told me that I couldnt climb on if someone held my walker or he pull up toward the curb so the lift would be on level ground. He said he would never do that and other bus drivers would wither. He said it wasnt safe. I asked him how he expected me to get anywhere getting on a stop. Then anther passenger tried to explain why the driver was right, and how I had no right to get on at that stop. It made no sense. Then another passenger tried to do the same thing. The driver thought he then had audiences and began laughing and waiving his arm say I had not paid my fare. He took me home. Today at the same stop the same driver stopped half way down the block and let people off. He drives past me waiving and laughing. Yesterday he told me that other drivers will not pick me up at that stop wither. He did what he threatened to do and I got a bus number."</p> <p>5-4-15 email copy of the PSR to cyndia.chambers@SFMTA.COM; wallace.johnson@SFMTA.COM and to JMayeda of Pres Div to confirm the operator-efl</p> <p>05/08/15 4:06PM I left a voicemail for Wallace Johnson at Presidio asking that the Division confirm the Operator per edl request. sk</p> <p>5-15-15 @ 11:15 AM I called and spoke to WJohnson @415-601-7750 after reading the incident he confirmed that this is the right operator-efl</p> <p>-@ 11:21 AM I called and spoke to patron confirming that this is an ADA issue-efl</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 04-06-2015		
Date Closed 07-10-2015		
Resolution Code [REDACTED]		

**Administrative Hearing
PSR 483732**

Heard on December 1, 2015

Summary of Facts

The person named as the customer in the complaint appeared in person and was satisfactorily identified as the customer who lodged this complaint. The operator appeared in person and was satisfactorily identified as the operator named in the complaint. A union representative was present. The customer uses a cane and is disabled. The customer was unable to positively identify the operator present at the hearing as the operator present on the day in question. The operator disclaimed recognizing the customer as being present on the date in question. The audio and video record of the incident provides satisfactory proof that the operator at the hearing was the operator involved in the incident. The customer claims that he was denied boarding at the middle door of the articulated (double-car) bus vehicle in question) when the doors closed on him. The operator stated that the customer walked away from the bus without any manifestation of intent to board at another entrance to the bus. The audio-video record reflects that the customer had appeared in front of the front doors of the bus as the third potential boarding passenger in the boarding area, but then walked away from the front loading area of the bus as the two passengers ahead of him were boarding. The customer proceeded to the middle door of the bus reaching it just as the operator closed the doors and pulled away from the bus stop.

Rule

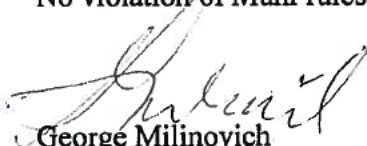
Operator is prohibited from moving a coach or electric car when passengers are standing in front of the designated standing load line. *Rule 4.18.1 Rules and Instructions Handbook, S.F. Municipal Railway*

Discussion

The operator reasonably reacted to the customer's movement away from the immediate boarding area of the bus when completing the boarding procedure (in part by closing the bus doors) and departing. There is no evidence in the audio-video record of insufficient regard by the operator of the forward and rear areas of the bus consistent with loading and departure. Since the customer was at the standing load line initially, but voluntarily departed therefrom and did not arrive in time to the middle doors, the operator is found to not have violated Muni rules.

Decision

No violation of Muni rules nor of the Americans with Disabilities Act is found.


George Milinovich
Neutral Hearing Officer

Dec. 10, 2015

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 38 GEARY	Direction OUTBOUND	
Incident Date 09-23-2015	Incident Time 09:32	
Vehicle Number 6269	Location GEARY BLVD BAKER ST SAN FR	
Department FLN OPS	Division FLYNN	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details Customer stated: "I was trying to get on the 38 Geary bus and he shut the door in my face. He sped away and it spun me around and knocked me down in the sidewalk but he was 1 inch away from running over my head. Im sure he saw me. I was at the front door and there were several people in front of me, so I walked to the side door and as I approached he shut the door. So I walked back to the front door and thats when he closed the door and I fell and he almost hit me. I am disabled and I walk very slowly with a cane. I am 69years old."</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 09-23-2015		
Date Closed 12-17-2015		
Resolution Code [REDACTED]		

PSR# 470321 Neutra I Hearing on 3/16/15

Testimony: Wheelchair-using Patron complained that, after boarding, the bus left while he was in the aisle and not secured. Operator had no recollection of the incident. Patron testified he was a new wheelchair user and was accustomed to Muni operators providing assistance without being asked. Patron said he did not request assistance or speak to the Operator. That the wheelchair securement area was available was stipulated.

Decision: Although the Operator properly provided access for the Patron by lowering the wheelchair lift for the Patron when he boarded, she did not take care to provide sufficient time for the Patron to make himself secure or to request assistance prior to the bus's departure. The absence of a request for assistance does not relieve the operator of the duty to ensure that a just-boarded wheelchair user is secure prior to the bus's departure. ADA Violation of Rule 6.14.1

Mike Hanrahan

Neutral Hearing Officer 3/31/15

NK



CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		

INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE	Type 213 GEN DSTRACT DUTY	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 22 FILLMORE	Direction INBOUND	
Incident Date 02-11-2015	Incident Time 10:25	
Vehicle Number 5426	Location N/A /	
Department POT OPS	Division POTRERO	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		

Incident Details Patron said, "I am a disable vet in a scooter scooter that they gave to me. What is the procedure for boarding? The driver just took off when I was still half way in the isle. The driver did not help me get strapped or secured into the bus. This happened also on the 54 line."

03/04/15 12:08PM
 I left a message to Patron's voicemail per Post It note (not dated) instructing me call to schedule Hearing. sk

AGENCY HANDLING AND RESOLUTION DETAILS	
Date Logged	02-11-2015
Date Closed	04-17-2015
Resolution Code	[REDACTED]

NEUTRAL HEARING REPORT FOR ADA PSRs

SFMTA

Municipal Transportation Agency

OVERVIEW							
PSR #	469411	INCIDENT DATE	02/02/15	DATE RECEIVED	02/03/15		
LINE/ROUTE	9	LOCATION	380 BAYSHORE BLVD				
HEARING DATE	03/23/15	HEARING TIME	10:00AM	HEARING LOCATION	1 SOUTH VAN NESS, _3RD_FLOOR RM _3072_		
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>	
OPERATOR	Name	[REDACTED]	Cap ID	[REDACTED]			
UNION REP	Name	Siegfried Henderson	Division	Woods			
HEARING OFFICER	Name		Telephone Number				
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?	Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity? <i>States does not recall</i>	Yes	<input type="checkbox"/>		
	No	<input type="checkbox"/>		No	<input checked="" type="checkbox"/>		
Is this a rescheduled hearing?	Yes	<input type="checkbox"/>	If yes, why?				
	No	<input checked="" type="checkbox"/>					
COMMENTS							
Video shows customer standing at coach stop with hand in air. Clear pass up, but no apparent disability.							
HEARING OUTCOME <i>No disability-related rule violation.</i>							
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<i>Julie Rosenberg</i> Signature of Neutral Hearing Officer			<i>3-23-15</i> Date				

Other Rule violations
 4.15.1 operator failed to stop for customer
 4.17.1 operator passed up customer in coach stop

NS



CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		

INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 9-9L SAN BRUNO		Direction OUTBOUND
Incident Date 02-02-2015		Incident Time 16:53
Vehicle Number 8112		Location 380 BAY SHORE BLVD/
Department WDS OPS		Division WOODS

Employee ID [REDACTED]
Employee Physical Description [REDACTED]

Incident Details Patron states, "I do believe that all your busses have audio and video. I am making a valid and true statement when I say He passed me up. I am requesting a video pull. I am making this request under the Freedom of Information Act, also. Im taking a photo of the stop on my phone to show at the grievance. I do believe that the driver looked at me right in the eye, and showed no regard for me, in fact I waived my hand.

2-6-15
email copy of the PSR to allen.chan@sfmta.com to request for video pull that Lagan wasn't check marked-efl

03/05/15 Patron states that SRN 4471301 PSR 469950 and SRN 4452961 PSR 469411 need to be reflect that they are ADA complaints/ Hearing requested. I revised the PSR to reflect this per edl. PSR 471037 was referenced in the call. sk

03/05/15 2:30PM
I left message with Darrin at Woods Division for Francisca to reopen the PSR for this urgent ADA complaint/ Hearing requested dated 02/02/15. sk

03/06/15
I called Francisca to reopen this PSR. She stated that we need to reopen it and put it on her list. sk

03/10/15 12:50
I left message to Patron's phone regarding scheduling. aiming for 3/23. sk

03/10/15 1:05PM
Patron returned my call regarding scheduling. Patron was informed that I usually schedule at least a week in advance. Monday 3/23 would be ideal to ensure that all parties are present and have adequate notice. Patron asked if the scheduling is dependent on the Operator's schedule when he requested Wednesday 3/18/15.

AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 02-03-2015		
Date Closed 04-06-2015		
Resolution Code [REDACTED]		

**Administrative Hearing
PSR 469950**

Heard on March 31, 2015

Summary of Facts

The person named as the customer in the complaint appeared personally. Neither the operator named in the complaint nor a representative of the operator's union appeared. The customer suffers from a disability which the customer claims is not apparent to an outside observer. The customer identified the operator as an African-American female with black hair in a weave or in braids. The customer claimed that he was at the boarding section of an elevated light rail stop at 6:10 A.M. and made a hand motion to the operator which operator saw at the time when he made eye contact with the operator indicating that he wished to board the train. The customer claims that the operator ignored her stop and passed up the stop. The customer decided to take an alternative Muni line to continue his travel.

Rule

Cars and coaches will stop at all designated stops where passengers are waiting to board or alight between the hours of 6:30 A.M. and 8:30 P.M. At other hours, in addition to the above, stops will be made for boarding passengers and on verbal request of alighting passengers at the nearside of streets between designated stops. (Rule 4.16.1 *Rules and Instructions Handbook, San Francisco Municipal Railway*)

Discussion

The only evidence available at the hearing was the documentation of the 311 complaint call made by the customer and the customer's testimony at the hearing which was found to be credible. A finding was made that the passenger was passed up on the date in question in the absence of an excusing circumstance. There is no evidence that the disability of the customer was apparent to the operator, that it played any role in the actions of the operator or had any disparate effect on the customer. Accordingly, a violation of the Muni rule cited above is found, but no violation of the Americans with Disabilities Act.

Decision

A violation of Muni Rules is found. No violation of the Americans with Disabilities Act is found. The complaint is found to be invalid.


George Milinovich
Neutral Hearing Officer

2 April 2015

NIF



CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route F MARKET & WHARVES		Direction OUTBOUND
Incident Date 02-08-2015		Incident Time 06:10
Vehicle Number 1077		Location 1ST AND MARKET ST /
Department GNVA OPS		Division ISLAIS CREEK
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details PATRON STATES THE DRIVER LOOKED HIM IN HIS EYE AND PASSED HIM UP.</p> <p>03/05/15 Patron states that SRN 4471301 PSR 469950 and 4452961 469411 need to reflect that they are ADA complaints/ Hearing requested. I revised the PSR to reflect this per edl. PSR 471037 was connected/ referred to in the call. sk</p> <p>03/05/15 I left message to Ricardo Espinoza's voicemail asking that he ID the Operator for this urgent ADA/ Hearing requested complaint dated 02/08/15. sk</p> <p>03/12/15 11:35PM I spoke with Ricardo Espinoza at Geneva. In edl absence, I asked whether Operator [REDACTED] is confirmed. Per Ricardo, the ID was provided by dispatch and he is confident with the Operator ID. Discussed with pv. sk</p> <p>03/12/15 12:00PM I confirmed in person Neutral Hearing with Patron, [REDACTED] sk</p> <p>03/25/15 9:00AM Patron called in and stated that he wanted to thank me and appreciated me for my assistance and time. sk</p> <p>03/31/15 10:00AM I spoke with [REDACTED] informing him that In Person NH 471037 will have to be rescheduled due to a schedule conflict per the Division. Patron raised his dissatisfaction with the video not being available. Per the Patron who is an Information Technology Engineer not having a video is unacceptable bc the video are incrementally backed up and archived. If the video device was working during that block of time then there is no</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 02-08-2015		
Date Closed 05-01-2015		
Resolution Code [REDACTED]		

NEUTRAL HEARING REPORT FOR ADA PSRs

SFMTA

Municipal Transportation Agency


OVERVIEW							
PSR #	471371	INCIDENT DATE	02/26/15	DATE RECEIVED	3:47AM		
LINE/ROUTE	94	LOCATION	MARKET ST/ BEALE ST				
HEARING DATE	04/08/15	HEARING TIME	3:00PM	HEARING LOCATION	1 SOUTH VAN NESS, _3RD_FLOOR RM _3071_		
FORMAT (check box)			In person?	<input type="checkbox"/>	By phone?	<input checked="" type="checkbox"/>	
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Seigfried Henderson <i>Leticia Logan</i>		Division	<i>send decision to</i> Woods		
HEARING OFFICER	Name	<i>H. Epstein</i>		Telephone Number	<i>510 967 3679</i>		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?	Yes	<input checked="" type="checkbox"/>	
		No	<input type="checkbox"/>		No	<input type="checkbox"/>	
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?			
		No	<input type="checkbox"/>				
COMMENTS							
<p><i>Patron stated that operator accommodated her by stopping at Beale at bus stop #41038, legal stops, after request that he not turn right on First. Video confirms.</i></p>							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input checked="" type="checkbox"/>	Dropped	<input type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<p><i>H. Epstein</i></p>				<p><i>4-8-2015</i></p>			
Signature of Neutral Hearing Officer				Date			

Patron was concerned that other operators do not accommodate her by proceeding along Market to Beale. I am referring this as a route question to

WJZ



CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 205 OFFRTE/DIDNTCOMP
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 94 L-N OWL		Direction INBOUND
Incident Date 02-26-2015		Incident Time 03:47
Vehicle Number 8707		Location MARKET ST BEALE ST SAN FRAN
Department WDS OPS		Division WOODS
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details Muni patron stated: "The bus driver was making a creative route taking and he did not stop at the designated stop on Market at Beale. This is not the first time that Ive complained about this. As I was getting off on Beale, I told the bus driver that he was supposed to stop and Market and Beale. He said to me that he was supposed to turn right on Market at First street. Hes done that to me before. Run #295. I am disabled and I would like a hearing on this. I would like the operators to follow the route. They kept showing this temporary order which was from July 2013, which they did a lot of construction on Market Street."</p> <p>- email copy of the PSR to allen.chan@sfmta.com to pull a copy of the video-efl</p> <p>03/18/15 9:00AM I left a voicemail to Patron's voicemail, relaying the following available Wednesdays. Patron was asked specifically if April 1, 2015 @ 3PM would work for her. Patron wold like to participate by phone for the Hearing. sk</p> <p>03/19/15 11:30AM Patron and I agreed to 4/8/15 @ 3P for telephone Neutral Hearing. sk</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 02-26-2015		
Date Closed 04-09-2015		
Resolution Code [REDACTED]		

OVERVIEW							
PSR #	480766	INCIDENT DATE	8-7-15	DATE RECEIVED	8-7-15		
LINE/ROUTE	44	LOCATION	HERNANDEZ AVE AND WOODSIDE AVE				
HEARING DATE	Oct. 5, 15	HEARING TIME	10:00am	HEARING LOCATION	1 SO. Van Ness Ave. 3 rd FL RM 3075		
FORMAT (check box)				In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Siegfried Henderson		Division	Woods		
HEARING OFFICER	Name	H. Epstein		Telephone Number	510 967.3679		
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>			No	<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?			
		No	<input type="checkbox"/>				
COMMENTS							
<p>No rule violation for discourtesy. Patron was satisfied that driver was informed of problem & that discussion on how to avoid it in future was sufficient remedy.</p>							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input type="checkbox"/>	Dropped	<input checked="" type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
				10/5/2015			
Signature of Neutral Hearing Officer				Date			

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 202 IGN STP REQUEST
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 44 O SHAUGHNESSY		Direction OUTBOUND
Incident Date 08-07-2015		Incident Time 13:50
Vehicle Number 8654		Location HERNANDEZ AVE WOODSIDE AV
Department WDS OPS		Division WOODS
Employee ID		
Employee Physical Description		
<p>Incident Details Caller stated " I would like to make a complaint bus number 8654, 44 Outbound, the driver was a Black female and she had a bald head. I would like a hearing and I would like the film pulled for this route to support my complaint at the hearing. I was on Woodside & balecta. She speed up and begin speeding past my stop. When I hollered at the woman and told her she wanted to tell me that I should have pulled the stop request sooner. .She took me all the way up the hill and I am handicap. I believe she is substituting on this line so she must have not known the next stop was before going up the hill but then when I told her she wanted to act all indigent. She was very rude and very boastful She needs to learn some manners when dealing with customers.</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 08-07-2015		
Date Closed 10-16-2015		
Resolution Code [REDACTED]		

OVERVIEW							
PSR #	480598	INCIDENT DATE	8-04-15	DATE RECEIVED	08-04-15		
LINE/ROUTE	6	LOCATION	VAN NESS AVE and MARKET ST				
HEARING DATE	Oct. 19, 2015	HEARING TIME	10:00am	HEARING LOCATION	1 So. Van Ness Ave. 3 rd Fl. Rm 3075		
FORMAT (check box)			In person?	<input checked="" type="checkbox"/>	By phone?	<input type="checkbox"/>	
OPERATOR	Name	[REDACTED]		Cap ID	[REDACTED]		
UNION REP	Name	Robert M. Gainer		Division	Potrero		
HEARING OFFICER	Name	H. Epstein		Telephone Number			
HEARING LOGISTICS							
ATTENDANCE	Customer?	<input checked="" type="checkbox"/>	Operator?	<input checked="" type="checkbox"/>	Union Rep?	<input checked="" type="checkbox"/>	
Did the customer verify the operator's identity?		Yes	<input checked="" type="checkbox"/>	Did the operator verify the customer's identity?		Yes	<input checked="" type="checkbox"/>
		No	<input type="checkbox"/>			No	<input type="checkbox"/>
Is this a rescheduled hearing?		Yes	<input type="checkbox"/>	If yes, why?			
		No	<input type="checkbox"/>				
COMMENTS							
<p>Complainant dropped complaint after discussion with operator and education of operator and offer of solution to deploying lift for standees with walkers at</p>							
HEARING OUTCOME							
Valid	<input type="checkbox"/>	Invalid	<input type="checkbox"/>	Dropped	<input checked="" type="checkbox"/>	To be rescheduled	<input type="checkbox"/>
<p><i>H. Epstein</i></p>				<p>10-19-2015</p>			
<p>Signature of Neutral Hearing Officer</p>				<p>Date</p>			

3C-RET-1.6/30/09

Market Street stops where where lift may not be deployed for wheelchair users.

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 207 REF KNEEL/LOW
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 6/7 HAIGHT-PARNASSUS		Direction INBOUND
Incident Date 08-04-2015		Incident Time 15:19
Vehicle Number 8132		Location VAN NESS AVE MARKET ST SAN
Department POT OPS		Division POTRERO
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details ADA customer was able to board the bus at Van Ness and Market - the wheelchair lift was working - but when they got to Market/8th where the customer wanted to get off the operator stated that the lift was not working. Then the operator changed his story stating that he could not let her off at that stop. ADA customer was helped by another customer on the bus to get off the bus - the operator would not use the lift at Market and 8th - ADA customer argued with the operator. The operator called Central Control - the operator tried to give the customer the phone to talk to Central Control - operator stated that he was right and would not use the lift here. Operator stated that he would call SFPD on the ADA customer - ADA customer told him to go ahead I will wait for them - another patron on the bus started cussing her off - the other customer yelled expletives at the ADA customer - that customer did stop after the ADA patron told her to not call her names. This operator was very disrespectful to a 65 year old disabled customer.</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 08-04-2015		
Date Closed 10-28-2015		
Resolution Code [REDACTED]		

Neutral Hearing Officer Report for PSR# 476734

2 Complaints

1st Complaint: Patron stated she was waiting for the bus sitting on a fire hydrant and was in the bus stop and moving towards the bus when it stopped and the bus did not wait for her – a “pass up”. Another passenger on the bus, [REDACTED], agreed that the Patron had been passed up and said she had told the operator at the time that Patron wanted to get on the bus.

The operator stated it was a flag stop at Revere near Third and that he would not have passed up Patron if she had been in the bus stop.

Although requested, there is no video available for this portion of the route.

Neutral Hearing officer finding: No ADA violation; insufficient evidence of a “pass- up” at the Revere flag stop.

2nd Complaint: Patron and fellow passenger [REDACTED] had to get off the bus at the Operator’s insistence. Operator’s Supervisor and responding police officers did not have the benefit of viewing the video when they asked Patron and [REDACTED] to get off the bus.

Neutral Hearing Officer finding: No ADA violation. The behavior of Patron and [REDACTED] did not warrant their removal from the bus. There were no physical threats or intimidation, no foul or abusive language, and their voices were raised no louder than the Operator’s. They remained in their seats throughout.

Mike Hanrahan

Neutral Hearing Officer

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category INATTENTIVENESS/NEGLIGENCE		Type 201 PASSUP/DIDNT W8
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 54 FELTON		Direction OUTBOUND
Incident Date 05-26-2015		Incident Time 16:30
Vehicle Number 8730		Location 3RD ST WILLIAMS AVE SAN FRAN
Department WDS OPS		Division WOODS
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details Patron states: I was sitting on the fire hydrant waiting for the bus and as he was coming I walked to the beginning of the bus zone. As he turned the corner he just kept going, so I was yelling at him to get on the bus. He slowed down and I tried to run as fast as I could because I have a back issue and he took off again. He stopped at the next bus stop and I tried to catch up again running, he just took off again. When I finally got on the bus at Van Dyke I asked him why did he pass me up and he said I should be happy that he was letting me on the bus at all there. I sat down, and the other patrons said they told him to stop for me. I said I looked at you and I know you saw me. He pulled the bus to a stop and told me he didnt like my attitude and to get off of the bus. I told him I was not going to get off and he called the supervisor. He was trying to say things to me to get me to react, but I would not react. We sat there and I felt bad for the other patrons that we were waiting and I was going to get off anyway. The driver said "can you get off of this bus so we can go?" A supervisor pulled up and he told that supervisor that he felt threatened and I was being combative. But the other patrons said no. 3 other people came and stuck up for me for how wrong the driver was. At that point the police came, and they went to the supervisor and then they came on the bus to talk to the driver. The driver wanted me and the another patrons that were sticking up for me to get off of the bus.</p> <p>Received: Tue 6/9/2015 4:10 PM From: Tapia, Francisca <Francisca.Tapia@sfmta.com></p> <p>The Operator name is confirmed, however the date is not correct. And per video pulled has no merit</p> <p>6-11-15 @ 8:42 AM I called and left a vm given the report # if interested of hearing procedure and if this an ADA report to call back to sched the hearing-efl</p> <p>-this is a wrong date given by the patron: -efl</p> <p>WDS 218 1 [REDACTED] 12:47p 12:47p 8:54p 8:54p 5408 8730 0 7:40a 8:54p [REDACTED] 05-26-15 9:59a</p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 05-30-2015		
Date Closed		
Resolution Code [REDACTED]		

Neutral Hearing Report for PSR 483420

Patron testimony: Standing in front of bus to force it to stop on 9/17/15 was in response to many prior pass-ups by this operator. Did not deny making threat to Operator to "get even" on 8/25/15.

Operator testimony: Intentionally passed up patron many times because he would make unwelcome advances to unaccompanied women on his bus. In addition said Patron threatened him on 8/25/15 – Patron said he would "get even". Said he reported patron's behavior to his supervisor but was told could not make report on Patron without his name. Said SFPD provided patron's name at time of 9/17/15 incident – since that time would let Patron on bus.

Neutral Hearing Officer finding: No ADA violation. Other rule violation – Operator failed to report each instance of passing up this patron to Central Control at time of pass-up.

Patron advised to call in and make complaint if he believes he was mistreated by any operator – told to not confront the operator.

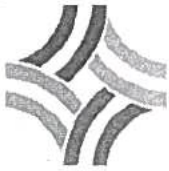
Operator acknowledged his failure to contact Central Control each time he felt justified in passing up Patron.

Neutral Hearing Officer



Mike Hanrahan 1/13/16

CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT	Type 301 DISCOURTESY	
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 30/45 STOCKTON-UNION	Direction OUTBOUND	
Incident Date 09-17-2015	Incident Time 18:20	
Vehicle Number 5555	Location UNION ST JONES ST SAN FRANC	
Department PRE OPS	Division PRESIDIO	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
Incident Details Dec		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 09-18-2015		
Date Closed 03-17-2016		
Resolution Code [REDACTED]		



SFMTA
Municipal
Transportation
Agency

April 4, 2016

**Neutral Hearing, regarding alleged Disability-Related Violation
Room 3075, 11 South Van Ness, San Francisco, CA 94103
February 8, 2016**

REVISED DECISION

PSR 489776

██████████ ["Patron"]

██████████ ["Operator"]

Robert Gainer ["Union Representative"]

Incident Date: December 14, 2015

Incident Time: 10:25 AM

Route: 33

Location: Ashbury Street/Clifford Terrace

I. PATRON'S DISABILITY STATUS

Patron stated that she used a cane when she boarded the bus and her gait was noticeably impaired. The hearing officer's own observation of patron entering hearing room confirmed this. In addition, by walking with a cane and asking Operator to yield the disabled seat to her, he had clear notice of her disability.

II. ABSENCE OF OPERATOR AND UNION REPRESENTATIVE

The hearing officer waited fifteen minutes with Patron. At 10:15AM, when neither Operator nor union representative arrived the hearing officer took Patron's testimony. Patron stated that she was willing to return to confront Operator, but give her disability this would be difficult.

III. EVIDENCE of ALLEGED VIOLATIONS

No video tape was available for this incident.

A. Operator refused to yield disabled seat

Patron gave uncontroverted testimony that when she boarded the bus, Operator occupied the front two seats of the disabled section, across the aisle from the driver who was a trainee. Operator was the trainer.

Patron wished to occupy the forward-most seat. When she asked Operator to move he refused to get up and pointed to the seats across the aisle.

B. Tension between Operator and patron ensued. Patron, displeased at Operator's refusal and a hostile look she received from him, said "attitude." Operator gave Patron a hostile look and demanded she repeat the word "attitude." On a subsequent trip, on December 17 or 18, 2015, on the same line, she encountered Operator again, this time driving. He refused to look at her.

IV. DISCUSSION

As a safety and communication issue, while engaged in training, the training Operator is entitled to occupy the front seat across from and nearest to the trainee driver. However, Patron testified that Operator occupied two seats. This testimony was uncontroverted.

Operator could have surrendered the second seat he occupied. Instead, he motioned for Patron to sit across the aisle.

IV. HEARING OFFICER ANALYSIS

A. WAS THERE A DISABILITY-RELATED RULE VIOLATION?

A finding of a disability-related violation requires that the conduct complained is based on a disability and constitutes a denial of access.

Operator refused to give up a seat in the disabled row, where was sitting, to an evidently disabled patron. However, Patron was able to access a disabled seat directly across the aisle. Without a denial of access there is no disability-related violation.

FINDING 1

By a preponderance of the evidence, there is a not a disability-related Rule violation on these facts.

Operator gave Patron a hostile look and on a subsequent trip refused to look at her.

FINDING 2

There is insufficient evidence of a disability-related Rule violation on these facts.

Respectfully,



Henry Epstein

SFMTA Hearing Section

REVISED April 4, 2016



CUSTOMER DETAIL		
Name [REDACTED]		
Phone [REDACTED]	Email [REDACTED]	
Address [REDACTED]		
INCIDENT DETAIL		
Category DISCOURTEOUS/INSENSITIVE/INAPPROPRIATE CONDUCT		Type 302 ALTERC: EMP/CUST
ADA? X	Title VI?	Other Disc.
Trapeze Line/Route 33 ASHBURY-18TH	Direction OUTBOUND	
Incident Date 12-14-2015	Incident Time 10:25	
Vehicle Number	Location ASHBURY STREET/CLIFFORD TE	
Department POT OPS	Division POTRERO	
Employee ID [REDACTED]		
Employee Physical Description [REDACTED]		
<p>Incident Details I entered the bus at Clifford Terrace, and there was a [REDACTED] who was being taught by this [REDACTED]. The teaching driver was seated/sprawled over the two seats closest to the front door, right side of bus facing forward.</p> <p>Because I have a disability, it is difficult for me to move much, so I asked to be seated on the most forward seat where the teaching driver was seated. He would not get up, pointed to the seats across the aisle for me to be seated there. This in spite of the fact that there is a sign that says people must vacate the seat for a disabled passenger (me.)</p> <p>I looked at the driver with displeasure. He gave me a hostile look back, and I said, "attitude." He then demanded to know what I had said. I refused to repeat it. This confrontation led to tension between us.</p> <p>A few days later, perhaps 12/17 or 12/18, I got on the bus at that same stop, and the [REDACTED] was the driver of the bus this time. He acted as if I didnt exist. I did not say anything to him.</p> <p>I find it most unpleasant to meet drivers who have such a hostile attitude. I feel that drivers ought to be psychologically tested before they are hired to make sure they can meet the public in a relaxed and pleasant fashion. Some training after hire should probably be required.</p> <p>If drivers cannot be pleasant to passengers, they ought to find work elsewhere, in my opinion. I dont know whether this driver was unpleasant to me because I am disabled or because I am not African American. I have not ever done anything unpleasant to this driver.</p> <p>12/21/15: Attempted to contact patron for additional information. 12/21/15: Not Title VI, box unchecked 12/21/15: Patron called back but I could not hear her. </p>		
AGENCY HANDLING AND RESOLUTION DETAILS		
Date Logged 12-20-2015		
Date Closed 02-16-2016		
Resolution Code [REDACTED]		