

IN ARBITRATION PROCEEDINGS PURSUANT TO TITLE 102.5 OF THE CURRENT
COLLECTIVE BARGAINING AGREEMENT BY AND BETWEEN THE PARTIES

In the Matter of a Controversy

between

LOCAL UNION NO. 1245 of INTERNATIONAL
BROTHERHOOD OF ELECTRICAL WORKERS,

Complainant,

and

PACIFIC GAS AND ELECTRIC COMPANY,

Respondent,

Involving: Whether or not [REDACTED] C [REDACTED]
was discharged for proper cause.

OPINION AND DECISION OF BOARD OF ARBITRATION

SAM KAGEL, ESQ., Chairman

L. V. "Bud" BROWN, Member appointed by Company

RALPH JAMES, Member appointed by Company

HENRY B. LUCAS, Member appointed by Union

JAMES McMULLAN, Member appointed by Union

San Francisco, California

January 7, 1964

ISSUE:

"Whether ██████ C█████ was discharged for proper cause?

"The remedy, if any, is left up to the Board of Arbitration." (Tr. p. 4.)

TERMINATION NOTICE:

On September 13, 1963, Chave was given the following termination notice:

"Since August 13, 1963 your job performance has not met the requirements as listed in the duties of Plant Clerk, First. Your attitude and effort as far as the technical work is only fair, but all other areas of your job have required much more time than is necessary. You have been instructed by the Senior Clerk in many areas of your work many times over and you have continued to make errors and waste time. I, (B. T. Pedersen, Station Chief of the Oakland Power Plant) feel that the letter I mailed to you on August 16, 1963, outlined the understanding we had as of August 13, 1963, and because you have not met the requirements of the 'Duties of Plant Clerk, First' which you have an outline of, your employment with us is terminated as of today. Due to your years of employment with us you will be allowed to work for two (2) more weeks if you wish." (Page 9(b) Co. Ex.1.)

POSITION OF PARTIES:

The Company's position is basically set forth in the notice of termination.

The Union's position was stated in opinions of the Union's Review Committee members dated October 18, 1963

which reads:

"This grievance is in fact a continuation of a previous situation in which Mr. C█████ was discharged. This matter was filed for arbitration but just prior

to the date for a hearing, the Company offered to reinstate Mr. C[REDACTED].

"This offer was accepted by the Union but with certain specific understandings as stated to Company's Review Committee Chairman. It was clearly understood that Mr. C[REDACTED] was to be given every assistance and cooperation necessary to adjust to the situation which was definitely strained under the circumstances and he definitely was not to be harrassed.

"While it was agreed that he should meet the normal standards of proficiency in carrying out his assigned duties, it was clearly understood that his lack of typing skill was not to be a factor in judging his competency on the job.

"The Union is not now defending nor has it ever intended to defend persons with proven incompetency. The previous case did not prove Mr. C[REDACTED] incompetent and the facts of this case do not support this contention.

"The situation from the moment of reinstatement began to deteriorate and became more difficult as time progressed. Mr. C[REDACTED] was put on the defensive by the Division Management the first day he reported after reinstatement. He was given directives and ultimatums periodically which created an atmosphere adverse to building cooperation and placed him in a position of being wrong no matter what he did.

"We can certainly agree that the situation now existent in the Plant is one which must be corrected. We do not agree that the fault is all Mr. C[REDACTED]'s.

"It is our opinion that Mr. C[REDACTED] was improperly discharged and must be reinstated with full rights restored." (Mt. Ex. 3.)

DISCUSSION:

Background Prior to May 8, 1963:

For a period of time prior to May 8, 1963 the Company made various complaints concerning the work performance of

C[REDACTED]. They included charges of stalling tactics, piddling around, doing only acceptable work in so far as the fuel calculation reports were concerned; that as to his other duties C[REDACTED] took excessively long periods of time to perform such duties; that he picked and chose the projects on which he would work.

The Company had meetings with C[REDACTED] concerning his work and attitude, but claimed that there was no improvement in his job performance. In February of 1961 he was told that he would have to bring his typing up to 30 words per minute with accuracy. Thereafter, according to the Company, C[REDACTED]'s attitude and work performance improved and the Company determined not to give him the typing test. However, according to the Company the improvement of C[REDACTED]'s attitude and work performance lasted for only a short period of time.

During March of 1962 a further discussion was held with C[REDACTED] and he was thereafter told that he would have to take a typing test. At that time C[REDACTED] said he would be unable to take the test because he had had an injury to his arm. At the request of the Company he produced a letter from a doctor, and as a result he was given light duties for several weeks. Thereafter C[REDACTED] went on sick leave.

The record is clear that while on sick leave C[REDACTED] enrolled at the Healds Business College for a typing course.

C [redacted] overstayed his sick leave, and because of that he was terminated. The parties settled a grievance arising out of this termination and C [redacted] returned to work on May 8, 1963.

Developments After May 8, 1963:

After C [redacted]'s return there developed a question as to the duties to be performed by him. In order to set forth these duties clearly and in writing the Company prepared a summary of such duties, noting the approximate schedule of time required to complete them. This was sent to the Union for concurrence. The Union agreed that the duties outlined could be considered proper with the exception of one item-- "dictation", and the Union stated: "Further it is our understanding that the times for the various items covered are guides only and not maximums."

On August 13, 1963 the list of agreed to job duties and the approximate time schedule required to perform the work was reviewed and given to C [redacted]. There ensued further discussions with C [redacted] concerning his work performance. On September 13 C [redacted] was given his notice of discharge.

The Typing Requirement:

The Union agrees that C [redacted] was expected to conform to the duties of Plant Clerk, First, except that the typing was not to be considered a requirement nor would it be a basis for evaluation of his performance on the job. In 1955 the duties

of the Plant Clerk, First was changed to include typing, and the Union claimed that it was agreed that incumbents who were on the job at that time would not be required to meet the typing requirement.

The Company contended that the understanding made with the Union when C████ returned to work after his leave of absence was that he (C████) would be expected to perform all of those duties he was capable of performing. It is the Company's contention that at the time of the grievance it had oral information that C████ could type in excess of 30 words per minute.

As noted from the record there is no basic difference between the Union and the Employer in that typing would not be the basis for the evaluation of C████'s performance on the job; the Company agreeing that C████ would be required only to do the typing that he was capable of performing. The issue as it develops in this case, therefore, does not revolve around the specific question of whether or not C████ is capable of typing 30 words per minute or more. There is no question but that C████ was able and did some typing during the entire period of his employment.

Work Record of C████:

The record discloses that C████ took an inordinate length of time in performing typing assignments; that he

committed errors in his work. This case need not be determined on the factor of C█████'s typing speed, i.e., whether he could type 30 W.P.M. or not. The period of time during which he took to type certain assignments, which will be examined hereinafter, indicates very clearly that his work performance had nothing to do with his attainable speed. But that the work performed was completely unsatisfactory without reference to the speed at which he could perform the typing function. That the record establishes that C█████ determined in effect that he was not going to perform any typing assignments.

For example, a one-sentence, two-line letter dated August 14, 1963, addressed to Henry Pratt Company, was assigned to C█████ at 2:05 P.M. on that date to type. C█████ spent some 20 minutes checking standard practice on correspondence and asking questions on how to set it up. This had all been explained to him completely at a prior date. At 2:25 he started typing--he completed the typing at 2:47. In short, he took 22 minutes to type a letter which consisted of one sentence of two lines.

On August 15, 1963 he was given a four paragraph letter to type, consisting of eleven lines. This assignment was given to him at 12:30 P.M.; he started typing it at 12:45 and he completed it at 1:10 P.M.; that is, the actual typing took 25 minutes. On August 25 there were certain operating schedules that had to be typed in which C█████ took an hour and 12

minutes. This was retyped by another Clerk who made copies as required in 15 minutes.

In so far as the typing is concerned, therefore, as already noted, the issue here is not whether he could type 30 words per minute more or less; nor is the issue here that typing in and of itself could not be used as a proper basis for evaluating C█████'s performance. It is clear from the record, and it was not denied in any important respect by C█████, that he took such an unreasonably long time to perform these assignments, that such results cannot be accounted for by reference to a lack of typing skill. In short, his performances can only be attributed to what the Company claims has always been the difficulty with C█████, namely, that he did not like any work which involved typing; that he therefore stalled on such work; that he was uncooperative as to such work; and that this was his method apparently of sabotaging such assignments.

The record of C█████'s work performance on other clerical duties not involving typing was also poor.

The Company's Harrassments:

The Union contends that the Company, in effect, made it impossible for C█████ to carry out his duties properly; that they harrassed him, and in other ways discriminated against him.

It is correct that some of Mr. C█████'s superiors were not satisfied to have him return to work and so stated that fact. But there is no evidence that they did not give C█████

every opportunity to perform his work satisfactorily. And in this case the parties actually set forth in specific terms the duties that C [redacted] was to carry out with maximum guide lines as to the time that could be reasonably taken for the performance of such duties. And C [redacted] did not measure up to this mutually agreed upon schedule. This joint effort to guide C [redacted] in performing his work went to naught because of his attitude.

Nothing appears in the record that indicates that anybody in the Company acted toward C [redacted] so as to interfere with his carrying out his duties properly and satisfactorily. It cannot be said that C [redacted] had not been given more than a reasonable opportunity to turn in a satisfactory work performance. Whatever personal reasons led C [redacted] not to perform his work satisfactorily, and not to change his attitude, the Company cannot be held to have acted unreasonably or unfairly in terminating his employment.

DECISION:

C [redacted] was discharged for proper cause.

BOARD OF ARBITRATION:

<u>Sam Kegel</u> Chairman	<u>I concur</u>
<u>Ralph James</u> Representative for Company	<u>I concur</u>
<u>J. B. Brown</u> Representative for Company	<u>I dissent</u>
<u>Henry B. Lucas</u> Representative for Union	<u>I dissent</u>
<u>James E. Mulla</u> Representative for Union	<u>I dissent</u>