

MEMORANDUM OF DISPOSITION

FACT FINDING COMMITTEE CASE NO. ██████████ 1812-81-1
EAST BAY DIVISION GRIEVANCE NO. 1-1125-80-219

CASE CLOSED APR 7 1981
LOGGED AND FILED

On February 5, 1981, a Fact Finding Committee comprised of Messrs. C. L. Wheeler, Assistant Business Manager, IBEW, Local 1245; V. Stamps, Union Business Representative; P. E. Pettigrew, Industrial Relations Representative; and T. C. Phebus, Supervisor of Labor Relations; met to discuss this grievance concerning an alleged violation of Title 212 as it relates to an incident where the grievant was bypassed for an emergency overtime work assignment because of an anticipated conflict with a prearranged overtime work assignment. Mr. R. W. Stalcup, Assistant Business Manager, IBEW, Local 1245; Mmes. M. A. Short, Labor Relations Representative; and E. B. Kossar, Labor Relations Assistant; observed this meeting.

The Committee reviewed the Joint Statement of Facts and determined it was accurate.

The grievant, a Lineman, was prearranged to perform work beginning at 0700 hours on Saturday, September 13, 1980. This work involved rerouting cable from an existing pad-mount transformer to a newly installed transformer. At approximately 0430 hours on Saturday, September 13, 1980, the General Foreman called out a crew from the weekly sign-up list to respond to a car/pole accident. The grievant was not called by the General Foreman even though he had signed the weekly list, as the General Foreman anticipated that the car/pole repair work would not be completed prior to the commencement of the prearranged transformer work.

The car/pole work was completed at 1230 hours, at which time the crew was directed to a second emergency assignment that was completed at 2130 hours. The transformer work was completed by the grievant's crew at 1800 hours.

Union members of the Local Investigating Committee contended that notwithstanding the prearranged assignment, the grievant was entitled to be called out for the initial emergency assignment and requested that he be paid at the double time rate for the 2½ hour period from 0430 to 0700 hours.

In its review and analysis of this case, the Committee discussed Section 212.3 of the Physical Labor Agreement and noted that it provides for not charging volunteers for emergency overtime not worked due to the fact that they are on vacation, working, or scheduled to work prearranged overtime. Based on the facts of the instant case, the Committee agreed that the General Foreman was under no contractual obligation to call the grievant for the emergency assignment. The Committee also noted that the grievant was not obligated to be available for such a call-out and had he actually been called he could have declined to respond with no charging penalty. Accordingly, it is the determination of the Committee that the Labor Agreement was not violated in this situation and that the grievant is not entitled to the correction requested.

The Committee further agreed that this Fact Finding settlement would be distributed systemwide.

This case is considered to be closed without adjustment.

FACT FINDING COMMITTEE CASE NO. 1812-81-1
EAST BAY DIVISION GRIEVANCE NO. 1-1125-80-219

C. L. Wheeler
C. L. WHEELER, Union Member

~~Concur/Dissent~~

3-3-81

Date

V. Stamps
V. STAMPS, Union Member

~~Concur/Dissent~~

3-7-81

Date

P. E. Pettigrew
P. E. PETTIGREW, Company Member

~~Concur/Dissent~~

3-27-81

Date

T. C. Phebus
T. C. PHEBUS, Company Member

~~Concur/Dissent~~

2-20-81

Date

DOE

FOR INTRA - COMPANY USES

From Division or Department **INDUSTRIAL RELATIONS**
 FILE NO. **741.5**
 RE LETTER OF
 SUBJECT **Call Out of Employee on
 Vacation, Section 212.3**
 To Division or Department

June 1, 1981

- MS. M. E. BADELLA
- MESSRS. L. C. BEANLAND
- R. H. CUNNINGHAM
- D. K. LEE
- W. T. PETERSON
- W. K. SNYDER
- C. P. TAYLOR
- R. C. TAYLOR

DIVISION PERSONNEL MANAGERS:

Attached is a copy of Fact Finding Decision Nos. [REDACTED] and [REDACTED] which have been agreed to by Company and Union for system-wide distribution. In accordance with Section 102.4 of the Physical Agreement, the parties have mutually agreed that these Fact Finding settlements are prejudicial with respect to future grievances. These settlements have been reviewed with the Company's members of the Review Committee and have their concurrence.

The attached grievances concern the question of the entitlement of an employee who has signed the weekly call-out list to be called when he is on vacation. Corresponding to that, of course, is the issue of the Company's obligation to such employee. In the past, we have consistently advised that employees who are off on vacation should be considered unavailable from the time they leave their headquarters at the end of their work day until they return following the conclusion of their vacation. We have not, however, resolved that issue with finality in the grievance procedure. The attached cases do just that.

Although the grievances were resolved in Company's favor; that is, there was no contractual violation in calling out the employee who was on vacation, the parties nevertheless agreed that, for the future, this would not be done. This means that when an employee leaves his headquarters at the end of the shift for vacation, he is not entitled to be called out under the provisions of Title 212 even though he had signed the weekly call-out list, and the Company is not obligated to call him. If the Company does call the employee and such employee works, the others in that employee's same classification, who have signed the weekly call-out list and who follows such employee in consideration for call, may have a legitimate claim to the correction provided in Section 212.11(b).

If you have any questions on this, please call Paul Pettigrew on Extension 1123.

I. Wayland Bonbright
 I. WAYLAND BONBRIGHT

PEP:ml

- cc: DJBergman
- FCBuchholz
- JBStoutamore

MEMORANDUM OF DISPOSITION
FACT FINDING COMMITTEE NO. 1871-81-60
FACT FINDING COMMITTEE NO. 1872-81-61

SAN JOAQUIN DIVISION
GRIEVANCE NO. 25-408-80-80
GRIEVANCE NO. 25-409-80-81

SUBJECT:

The issue in these two grievances is whether there has been a contractual violation by using an employee who is scheduled for vacation but signed for emergency overtime on the weekly callout list.

DISCUSSION:

Attached hereto and made a part hereof is a report from the Local Investigating Committee.

A review of the facts of these cases revealed that the employee had requested he be called for emergency overtime during the weekend even though he was scheduled for vacation the following week.

Union's position was that the use of an employee who is scheduled for vacation for emergency overtime is in violation of Section 212.3. Company did not agree since this section states that an employee who is on vacation "will not be credited with the equivalent overtime if he does not work it"; conversely then, it must follow that he will be credited if he does work it. It is Company's position that this was in the Agreement to protect the employee who is on vacation and not to prohibit him from being called.

DECISION:

After a lengthy discussion, the Committee agreed that there had been no contractual violation in these cases considering the language of the Agreement.

Both parties also agreed that the use of employees who are scheduled for vacation to be called for emergency overtime is not a good practice; therefore, in the future, an employee who is on vacation as defined in Section 212.3 will be considered in the same manner as an employee who is off sick during regular working hours, also as described in Section 212.3. They will not be called until they have returned to work on a work day. Violations of this procedure will be subject to the provisions of Section 212.11 of the Agreement.

The parties agreed that this settlement will be distributed systemwide.

This case is closed.

MEMORANDUM OF DISPOSITION

FACT FINDING COMMITTEE NO. 1871-81-60

FACT FINDING COMMITTEE NO. 1872-81-61

SAN JOAQUIN DIVISION

GRIEVANCE NO. 25-408-80-80

GRIEVANCE NO. 25-409-80-81

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Roger Stalcup
R. Stalcup, Union Member

Concur/~~Dissent~~ 5/21/81
Date

Ron Van Dyke
R. Van Dyke, Union Member

Concur/~~Dissent~~ 4/25/81
Date

P. E. Pettigrew
P. E. Pettigrew, Company Member

Concur/~~Dissent~~ 4-29-81
Date

R. J. Steele
R. J. Steele, Company Member

Concur/~~Dissent~~ 4/23/81
Date

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