

REVIEW COMMITTEE**PG and E**

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IBEW 

INTERNATIONAL BROTHERHOOD OF
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 R.W. STALCUP, SECRETARY

CASE CLOSED NOV 15 1982
LOGGED AND FILED

RECEIVED NOV 1 2 1982

D.J. BERGMAN, CHAIRMAN

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

General Construction Grievance No. 3-978-81-82
 P-RC 729

November 1, 1982

MR. R. S. BAIN, Chairman
 General Construction
 Joint Grievance Committee

MRS. JAN CANNON, Chairman
 General Construction
 Joint Grievance Committee

Statement of the Case:

This case concerns the alleged improper discharge of a Gas Construction employee.

On January 21, 1974, the Grievant, a Tractor Operator B, sustained injury to his shoulders and back when a San Francisco Municipal Railway electrical cable broke, struck the Grievant and knocked him to the ground. The Grievant has had several ongoing medical problems which relate, either directly or indirectly, to this accident, and has been examined and treated on numerous occasions by several physicians; he has had operations on his back and right knee to correct physical problems caused by the January 24, 1974 accident. He has not worked for the Company since January 29, 1974.

In early 1976, the Grievant filed a civil suit against the City of San Francisco. The suit requested compensatory damages for alleged negligence which contributed to the January 21, 1974 accident. The judgement on the case awarded the Grievant \$295,000.00; the City of San Francisco was found responsible for 75 percent of the fault, and the Company was found responsible for 25 percent of the fault.

The Grievant eventually received a total of \$78,158.55 in temporary disability and supplemental benefit payments from the Company. Additionally, the Grievant has received approximately \$15,000.00 in Company-paid medical benefits. The Grievant's temporary disability and supplemental benefit payments were terminated on September 3, 1978. He continued to receive permanent disability advances at \$70.00 per week until July 8, 1979. The grievant has not received any additional monies from the Company. However, the Company has continued to provide the Grievant with medical examinations and treatments for his ongoing medical problems which relate to his January 21, 1974 accident.

The Grievant was terminated on July 22, 1981 because his physical condition prohibited him from returning to work with General Construction. A timely grievance was filed. On August 26, 1982, the Workmen's Compensation Appeals Board awarded the Grievant an additional amount of \$59,615.80, less credit for permanent disability advances and supplemental benefits in the sum of \$39,140.85, less permanent disability advances in the sum of \$11,240.00, less medical and legal expenses totalling \$2,254.00.

Discussion

The Committee has spent considerable time reviewing the Grievant's voluminous medical file. The Committee took particular note of the following documents:

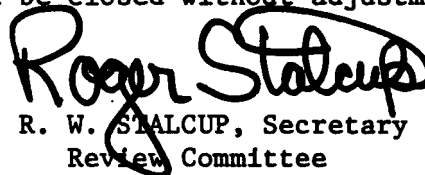
1. Letter from Dr. Forcade dated June 22, 1977 stating that, from an orthopedic standpoint, the Grievant was permanent and stationary and precluded from heavy lifting.
2. Letter from Dr. Perkins dated June 30, 1977 stating that, from a neurosurgical standpoint, the Grievant was stationary and ratable and precluded from heavy lifting.
3. Letter from Dr. Smith dated September 6, 1977 stating that the Grievant's right knee condition was permanent and stationary, and that he had essentially recovered from his knee problems; that his back problems continued to prohibit him from returning to work in a regular occupation.
4. Letter from Dr. Smith dated November 7, 1977 stating that the Grievant was precluded from returning to work as a Heavy Equipment Operator.
5. Letter from Dr. Smith dated February 9, 1978 stating that there was no improvement in the Grievant's back condition, and that his knee condition had worsened.
6. Letter from Dr. Smith dated May 4, 1978 stating that the Grievant's condition had reached the level which was ratable; that the Grievant had a permanent disability.
7. Letter from Dr. Cox dated November 6, 1978 stating that the Grievant's disability precluded heavy lifting.
8. Letter from Dr. Cowan dated June 14, 1979 stating that the Grievant had lost 50 percent of his previously-injured back capacity, but that he possibly could perform light duty work.
9. Letter from Dr. Citret dated October 30, 1980 stating that the Grievant had a permanent disability limiting him to light duty.
10. Letter from Dr. Peal dated November 1, 1980 stating that the Grievant had a "psychophysiological musculoskeletal reaction" which arose from and was caused by the injury he sustained in January 21, 1974; that the psychiatric condition is permanent and stationary.
11. Letter from Dr. Peal dated June 24, 1981 stating that the Grievant has neurosis which is permanent and stationary.

Decision

After a complete review of the medical file, including these documents referred to above, the Committee is in agreement that the grievant is precluded from returning to heavy physical work such as is required in his former classification of Tractor Operator B in General Construction Department. Company stated there is no light duty work available which is within the grievant's physical ability. The Committee noted that the grievant was not a participant in the Group Life Insurance Plan and therefore is not eligible for benefits provided by the Long Term Disability Plan. The Committee also noted that, since he was injured prior to the January 1, 1975 mandatory rehabilitation provisions of the State Labor Code, Company was not legally required to provide rehabilitation. Considering all of the above, the Committee is in agreement that the case should be closed without adjustment.



D. J. BERGMAN, Chairman
Review Committee



R. W. STALCUP, Secretary
Review Committee

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