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D.J. BERGMAN, CHAIRMAN

**REVIEW COMMITTEE
CASE CLOSED
LOGGED AND FILED**

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IBEW 

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
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R.W. STALCUP, SECRETARY

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

General Construction Grievance No. 3-1070-82-29
P-RC 800

February 15, 1983

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

MR. G. VALLEY, Chairman
General Construction
Joint Grievance Committee

Grievance Issue

Ten Gas Construction Equipment Operators were disqualified from demoting into the Heavy Truck Driver classification because they did not have a Class 1 Driver's License.

Facts of the Case

The grievants were demoted from the Miscellaneous Equipment Operator A and Tractor Operator B classifications in January and February 1982 due to lack of work. They were disqualified from demoting into the Heavy Truck Driver classification because they did not possess a Class 1 Driver's License at the time of their demotions. Some of the grievants were demoted to Miscellaneous Equipment Operator B. The rest of the grievants first were demoted to Heavy Truck Driver, but then were again demoted to MEOB a short time later when it was discovered that they did not have a Class 1 License. All of the grievants apparently became aware of the likelihood of their demotions from MEOA or TOB at least 30 days before the demotions occurred. All of the grievants knew before they were demoted that a Class 1 License was a requirement for the Heavy Truck Driver classification.

The Class 1 Licensing process in General Construction is a rather involved procedure which includes a physical examination, a written test given by the State, initial instruction and training by a qualified Company driver instructor, an actual driving test by a Company driver instructor, followed by the issuance of the license by the State. This procedure takes several weeks to complete.

The Union claimed that the grievants should have been allowed to enter the Heavy Truck Driver classification because they had begun the process of obtaining Class 1 Licenses prior to the dates of their demotions. The Company replied that, since a Class 1 License is a requirement for the Heavy Truck Driver classification in Gas Construction, and since the grievants did not possess Class 1 Licenses at the time of their demotions, it would have been improper to allow them into the Heavy Truck Driver classification at that time.

February 15, 1983

After gathering and examining the facts of the case, the Local Investigating Committee decided that if a grievant had requested to begin the Class 1 Licensing process 30 days or more before his demotion, his request was timely (with respect to the date of his demotion) and, therefore, he should have been allowed to enter the Heavy Truck Driver classification at the time of his demotion. Using this as a guideline, the Local Investigating Committee agreed 1) to place two of the grievants in the Heavy Truck Driver classification retroactive to the dates of their demotions to MEOB, and 2) that four of the grievants were properly disqualified from the Heavy Truck Driver classifications at the time of their demotions. The Local Investigating Committee was unable to agree on grievance resolutions for the remaining four grievants.

The Joint Grievance Committee did not change or modify the Local Investigating Committee's agreements; neither was the Joint Grievance Committee able to resolve the grievance issue with respect to the remaining four grievants. Therefore, this case, insofar as it applied to the remaining four grievants, was referred to the Review Committee.

Discussion and Decision

After reviewing the facts of the case with respect to the four remaining grievants, the Pre-Review Committee concluded that Grievants Washington and Maples appeared to have requested to begin the Class 1 Licensing process at least 30 days prior to their demotions, and that Grievants Swars and J. Breeding had not requested Class 1 Licensing 30 days or more before their demotions. (Note: Grievant Breeding had requested a Class 1 License in May 1981; however, this request was not related to his demotion status in February 1982.)

The Pre-Review Committee does not necessarily agree that the 30-day guideline used by the Local Investigating Committee is appropriate. However, since it would not be equitable to resolve the grievance issue with respect to the remaining four grievants on a basis different from that which was applied to the six other grievants, the case is returned to the Local Investigating Committee for settlement in accordance with the Pre-Review Committee's aforementioned findings. The case is closed on this basis.


D. J. BERGMAN, Chairman
Review Committee


R. W. STALCUP, Secretary
Review Committee

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