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REVIEW COMMITTEE

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PACIFIC GAS AND ELECTRIC COMPANY
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CASE CLOSED
LOGGED AND FILED

OCT 11 1984

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

D.J. BERGMAN, CHAIRMAN

RECEIVED OCT 11 1984

San Francisco Division Grievance 2-896-83-96/2-927-83-127
P-RC 917

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

October 11, 1984

MR. K. H. ANDERSON, Company Member
San Francisco Division
Local Investigating Committee

MR. V. STAMPS, Union Member
San Francisco Division
Local Investigating Committee

The above-subject grievance has been discussed by the Pre-Review Committee prior to its docketing on the agenda of the Review Committee and is being returned, pursuant to Step Five A(i) of the grievance procedure, to the Local Investigating Committee for settlement in accordance with the following:

Grievance Issue

A Relief Assistant Control Operator was given a disciplinary letter on July 13, 1983 for four incidents of poor job performance. Then on July 21, 1983, the grievant received a disciplinary letter confirming a three-day disciplinary suspension on July 18, 19 and 20. The three-day suspension involved the employee stating that he was ill and unable to work, and the supervisor believing that the employee was alleging illness to avoid a work assignment.

Facts of the Case and Discussion

The grievant was counselled on June 14, 1983 regarding his failure to take routine readings in the plant during an IO test on an earlier shift. The grievant was again counselled on June 21, 1983 for 1) allowing No. 5 Evaporator to overflow, causing No. 3 Unit Turbine floor area to flood on June 19, 1983; 2) failure to properly control water level to the No. 7 Boiler Drum during start-up on June 20, 1983; and 3) allowing No. 2 Evaporator to overflow, causing No. 2 Unit Turbine floor area to flood.

On July 13, 1983, the grievant was given a letter of reprimand following a counselling session related to his failure to collect routine readings in the plant on July 11 and July 12, 1983. This disciplinary letter also recapped the incidents covered during the June 14 and June 23, 1983 counselling meetings.

After reviewing the performance deficiencies, the Pre-Review Committee agreed that just and sufficient cause existed for the July 13, 1983 letter, and therefore no adjustment is necessary.

In reviewing the incident that led to the three-day disciplinary suspension on July 18, 19 and 20, the Committee determined that the grievant was scheduled to work beginning Sunday, July 17, 1983, from 11:45 P.M. to 7:45 A.M.

When the employee reported to work, he was instructed by the Shift Foreman to assume the Assistant Control Operator duties on Units 2 and 3, which were to be started up during that shift. The grievant indicated that he was scheduled to work on Unit 4 that evening.

The Foreman informed the employee that he is paid for an eight-hour shift and that the Shift Foreman is responsible for assigning the work. The employee then stated that he was sick and needed a relief. The Supervisor informed the grievant that it was unacceptable to use sickness as an excuse to undermine the Shift Foreman's authority and immediately suspended the employee. The grievant was told to report to the Supervisor of Operations prior to returning to work.

The issue in this case is whether or not the grievant was in fact ill and unable to work his assigned shift on July 17/18, 1983. When the employee returned to work on July 21, 1983, he provided the supervisor a copy of a Kaiser visit verification form. The form indicated that the employee was seen at the hospital on either July 17 or July 18, 1983, (it appears the 18th was written on the form and then changed to the 17th) and the diagnosis was viral syndrome. The form was signed by the grievant and a representative of Kaiser Hospital. The form does not state that the employee had been ill or unable to work, nor does it state when the employee would be able to return to work. The employee provided the Company with this form without any request being made to him to provide satisfactory evidence of his illness.

The Committee discussed at length the incompleteness of the document. The Company member of the Committee was of the opinion that if the employee had been requested to provide satisfactory evidence of illness, this form would not have been considered acceptable. Union pointed out that, following the grievant's claim of illness, the Shift Foreman stated that it was unacceptable to use sickness as an excuse to undermine his authority and immediately suspended the grievant. The grievant's actions were described in the July 21, 1983 disciplinary letter as "insubordinate conduct in not following the Shift Foreman's instructions". Notwithstanding the grievant's claim of illness, the supervisor rejected that claim and suspended him for insubordination without any discussion related to evidence of illness. The Union also argued that since the employee has not had any attendance problems and has never been under the requirement to provide satisfactory evidence of illness, that the employee was unfamiliar with what could be required and unaware that this form would have been considered unacceptable by the Company.

Company members of the Committee believed that the circumstances surrounding the employee's absence were suspicious in that he reported to work ready and willing to perform his job duties until such time as the Foreman changed his assignment. The grievant stated that he was too sick to work on Units 2 and 3 (these Units were to be started up during his shift), but that he could work on Unit 4 (working on this Unit would require only monitoring duties).

The Committee agreed that in some situations the Company has the right to require an employee to provide satisfactory evidence of illness when the Company suspects the employee may not be putting sick leave to its intended use. However, the supervisor, in this case, never requested the employee to provide satisfactory evidence. The employee did go to Kaiser "on his own" and provided what he believed was satisfactory evidence.

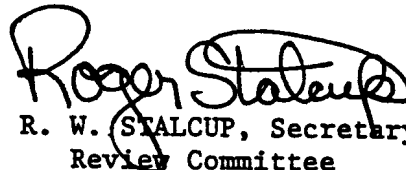
The Committee also reviewed the employee's record and determined that during the employee's 30 years of employment there is evidence of only one incident in 1972 when the grievant was orally counselled for an operating error. The Committee also determined that the grievant does not have any availability for work problems and there is no record of any suspected or proven sick leave abuse incidents. The Committee agreed that the circumstances surrounding this incident were suspicious. However, given the employee's 30-year nearly unblemished work history, the Committee is unable to say with any certainty that the employee was not, in fact, sick. Therefore, the Committee agreed to pay sick leave to the grievant for July 18 and 19, 1983.

However, the Committee agreed that the employee is not without fault. In reviewing the facts of the case, the Committee agreed that the employee was instructed to report to the Superintendent of Operations on the day following his suspension. The employee failed to call in or report to the Superintendent and only when the employee was contacted on the afternoon of the 18th was the Company made aware that the employee was still ill and unable to work that evening. The employee also took off July 20 as sick leave. Therefore, the Committee agrees that the employee failed to follow instructions regarding reporting to the Superintendent or notifying a supervisor of his continuing illness and should receive a one-day disciplinary suspension without pay on July 20, 1983. The July 21, 1983 disciplinary letter should be rewritten to include the above and the Company's suspicion that the employee may not have used sick leave for its intended purpose on July 18 and 19, 1983.

This case is considered closed on the basis of the above and should be so noted by the Local Investigating Committee.



D. J. BERGMAN, Chairman
Review Committee



R. W. STALCUP, Secretary
Review Committee

RS/LMT:kem