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REVIEW COMMITTEE



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R.W. STALCUP, SECRETARY

D.J. BERGMAN, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

JUN 13 1985

CASE CLOSED
LOGGED AND FILED

RECEIVED JUN 12 1985

General Construction Grievance 3-1344-84-76
P-RC 1011

June 12, 1985

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

MR. BERRY HUMPHRY, Chairman
General Construction
Joint Grievance Committee

Grievance Issue

Letter of reprimand issued to a Field Clerk dated October 4, 1984 for heated arguments with clerical and crew personnel and inability to communicate with fellow employees in a civil manner and letter of reprimand dated October 9, 1984 for inappropriate remarks made relating to another employee.

Facts of the Case

The grievant was a Field Clerk in General Construction Department, headquartered at Oakland at the time of the incidences.

On August 17, 1984, grievant was transferred from Hayward to Oakland. On September 20, 1984, grievant called his supervisor and asked him to come to the headquarters because of an argument between the grievant and another employee. On October 4, 1984, the grievant was issued a verbal reprimand for being involved in rather heated arguments with clerical and crew personnel, resulting from his inability to communicate with fellow employees in a civil manner. Grievant was then given a letter dated October 4, which he states was represented to him as documentation of the verbal reprimand.

A letter of reprimand was issued to the grievant on October 9, 1984 for alleged remarks concerning another worker. The October 9 letter was based on an alleged incident which occurred some four weeks prior to the incident which prompted the October 4 verbal reprimand.

Discussion

The Union stated that the grievant was being "set up" by fellow employees; that while the grievant may have certain difficulties in getting along with others, supervision in this instance was placing all of the blame on

him when, in fact, co-workers were contributing to the situation. Union argued that this was confirmed by the fact that grievant himself called the supervisor to the headquarters on September 20, 1984, to assist in settling an argument with a fellow employee.

Company responded that the grievant has been counselled about his argumentative behavior on three occasions prior to October 4, 1984 and had been transferred at least four times due to his inability to get along with others. While it may be true that co-workers were contributing to the situation on October 4, the grievant had been repeatedly counselled but it continue to be a problem. Company further stated that regardless of how the October 4, 1984 disciplinary action was represented to the grievant at that time, the letter which resulted from it was clearly a letter of reprimand.

A secondary issue in the case concerned the role of the Shop Steward during the disciplinary discussions with the grievant on October 4. The supervisor told the Shop Steward that he could no longer participate in the discussion because he (Steward) was becoming argumentative and disruptive. The Shop Steward stated that the supervisor told him that he was only to be an observer and that he could not participate in the discussion.


During its discussion of this case, the Committee was informed that the October 4 letter had been prepared prior to the discussion with the grievant and that the meeting was for the purpose of presenting the letter to the grievant and for counselling. The meeting was not an investigatory interview. Although it is not absolutely clear, the record seems to confirm this. In reference to this, the Committee opined that an employee has a right to representation during an investigatory meeting which may lead to discipline, and a Shop Steward's role is to advise the employee about his rights under the Agreement and to assist him in presenting the facts, not to respond to questions posed directly to the employee. However the Shop Steward may elaborate or expand upon the employee's answers.

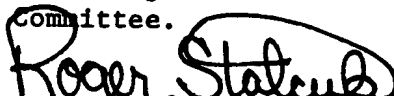
The Committee noted that the Local Investigating Committee Report stated that the role of the Shop Steward with respect to the constructive discipline process was reviewed with both the supervisor and the Shop Steward.

Decision

After reviewing the facts in this case, the Committee is in agreement that the October 9, 1984 letter of reprimand be rescinded, that the October 4, 1984 letter is in fact a letter of reprimand, and that the October 4, 1984 letter will remain. The Committee also agreed that the October 4 letter will be reviewed in one year from the date issued and if no similar problems occur it will be covered. In addition, the role of the Shop Steward was clarified.

This case is closed on the basis of the above adjustment and should be so noted in the minutes of the Joint Grievance Committee.


D. J. BERGMAN, Chairman
Review Committee


R. W. STALCUP, Chairman
Review Committee