

REVIEW COMMITTEE



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INTERNATIONAL BROTHERHOOD OF
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FEB 27 1986

**CASE CLOSED
LOGGED AND FILED**

D.J. BERGMAN, CHAIRMAN

RECEIVED FEB 26 1986

San Joaquin Division Grievance No. 25-758-85-1
P-RC 1039

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

February 21, 1986

BOB J. STEELE, Company Member
San Joaquin Valley Region
Local Investigating Committee

WAYNE WEAVER, Union Member
San Joaquin Valley Region
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(v) of the grievance procedure, to the Local Investigating Committee for settlement in accordance with the following:

Subject of the Grievance

This case concerns a one-day disciplinary layoff given to four Electric T&D employees in Bakersfield for failure to report for prearranged overtime.

Facts of the Case

On or about October 22, 1984, the General Foreman asked for 27 volunteers to work prearranged overtime on Saturday, October 27, 1984. Twenty-one employees signed up. The General Foreman told the Local Investigating Committee "that after reviewing the nature of the work to be done on October 27 and the response to the volunteer sign-up list, he determined that mandatory overtime would be required..."

The Bakersfield crews had been working prearranged overtime on a regular basis so a policy was developed to allow an employee one Saturday off while this project was ongoing. The General Foreman maintained records on each employee indicating whether or not each employee had exercised this one Saturday-off option.

One grievant asked to be excused from the overtime assignment because he had tickets for a USC football game on Saturday and a L.A. Rams game on Sunday, as well as hotel reservations. He asked the General Foreman to be excused, but his request was denied because he had requested and received permission to be off the preceding Saturday, October 20, 1984, for a soccer game. The grievant had had plans for the Los Angeles weekend since August 1984.

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The second grievant indicated that he told an Electric Construction Supervisor on Friday afternoon he was going to visit his son in Morro Bay on Saturday and would not be in. The General Foreman testified that all employees had been advised that requests to be excused were to be made directly to him. The grievant had not previously exercised his time-off option.

The third grievant had been allowed to take off the prior Saturday, October 20, 1984, to work on a "financial burden resulting from a personal business." The grievant was specifically told that if he failed to report on October 27, 1984, discipline would result.

The fourth grievant did not request the Saturday off nor indicate that he would not report. On October 27, 1984, he was a no-call, no-show. On Monday, October 29, 1984, the grievant indicated he had been ill, didn't wake up until 3:00 p.m., and didn't think he had to call in to report his illness.

A total of 45 employees worked on October 27, 1984; five were excused from working.

Discussion

Union argued that the Company didn't need all of the employees to work, that the General Foreman used mandatory overtime as a punitive measure because he did not get as many volunteers as he said he initially needed. Union opined that when 21 employees volunteered and six more were needed, the Company should have required six more employees to work but not everyone. The Union also argued that the Company should be more flexible in excusing employees from working overtime particularly where the employees have made financial commitments.

Company responded that all 45 employees who worked were productive; that Arbitration Case No. 37 established Company's right to require employees to work prearranged overtime. Company further stated that these employees resorted to self-help, were insubordinate and therefore, discipline was in order. With respect to the grievant who had the Los Angeles plans, he knew he had those plans two months before and still opted to use his one time off for another occasion.

Decision


The Company members of the Local Investigating Committee offered to settle this case by rescinding the discipline for the second grievant who had notified the Electric Construction Supervisor that he wanted to be off, and who had not at that point exercised an option to be off.

The Pre-Review Committee is in agreement that such an adjustment is appropriate and further agreed that the discipline for the other three was for just and sufficient cause.

It is also recognized by the Pre-Review Committee that it can be disadvantageous to all parties to require employees to work overtime against their wishes. However, it is also recognized that operating conditions sometimes dictate such action. In the instant case, it is questionable whether or not all employees were, in fact, needed. Operating requirements should be the primary criterion for deciding to order overtime on a non-voluntary basis.

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This case is considered closed on the basis of the foregoing and the adjustment contained herein. Such closure should be so noted by the Local Investigating Committee.



DAVID J. BERGMAN, Chairman
Review Committee



ROGER W. STALCUP, Secretary
Review Committee

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