

2.1 } Use of temp exempt  
7.2 } supv. to perform  
212 } emergency OT work

# REVIEW COMMITTEE



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AUG 15 1988

**CASE CLOSED  
LOGGED AND FILED**

RECEIVED AUG - 4 1988

D.J. BERGMAN, CHAIRMAN

Shasta Division Grievance No. 13-249-86-11  
P-RC 1163

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

August 3, 1988

ERIC NELSON, Company Member  
Shasta Division  
Local Investigating Committee

RICHARD M. HAFNER, Union Member  
Shasta 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 5A(v) of the grievance procedure, to the Local Investigating Committee for settlement in accordance with the following:

Subject of the Grievance

This case concerns the alleged improper utilization of a Subforeman temporarily upgraded to an exempt position to perform overtime work.

Facts of the Case

After work hours on May 28, 1986, a crew was needed to perform work out of the Red Bluff headquarters. The on-call supervisor exhausted the Title 212 list, then proceeded to call all employees in the needed classifications who were not on vacation or otherwise unavailable. The record is unclear on whether employees declined to work or were not home when called, but the supervisor was not successful in his attempt to get anyone to report. The supervisor then called an Electric Crew Foreman temporarily upgraded to Electric Construction Supervisor on a Payroll Change Tag. That employee agreed to work that evening as an Electric Crew Foreman. The Redding headquarters was then contacted with a request for a Lineman and a T&D Driver. Two employees from Redding's 212 list were utilized, reporting to Red Bluff to join up with the upgraded Electric Construction Supervisor who was paid as an Electric Crew Foreman for the overtime. The grievance was filed by the No. 1 Electric Crew Foreman on the 212 list at the Redding headquarters who believed he should have been called for the work in Red Bluff.

Discussion

At the outset, the Committee agrees that there is no violation of Title 212 in this case because no call-out was made for the Subforeman classification at the second headquarters; therefore, there was no bypass. As a result, the remedies provided in Subsections 212.11(b) and (c) are not applicable.

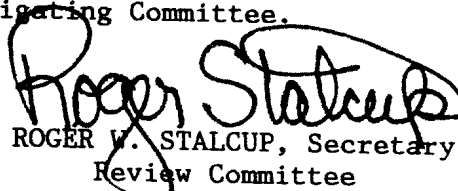
On the issue of the use of the upgraded employee, the Committee reviewed the decision in P-RC 504 in which a temporary Field Foreman called himself out to work emergency overtime after having noted that no one had signed the weekly on-call list. In that case, it was determined that a more reasonable effort should have been made to call out non-volunteer bargaining unit employees. In the present case, the on-call supervisor made a much more reasonable effort. However, Union cited Sections 2.1 and 7.2 as preclusions from using an exempt employee to perform work normally assigned to the bargaining unit. Additionally, the Committee noted that utilization of the upgraded employee did not result in any faster restoration of service as that employee had to wait for the rest of the crew to arrive from Redding.

#### Decision

The Committee agrees that based on the specific facts contained in this case, there is no violation of Title 212 of the Agreement. The on-call supervisor made efforts to contact employees on both the weekly 212 call-out list and on the 212 annual master list in the headquarters to no avail. As a last resort, he called the temporarily upgraded employee (on a tag) so that at least one classification was covered and then referred the rest of the classifications needed to the on-call supervisor in the Redding headquarters. Company opined that there was no intent on the Red Bluff on-call supervisor's part to circumvent any portion of the Labor Agreement. He was merely trying to get the work accomplished. The Committee agrees, however, that under similar future circumstances, it would be necessary for the entire crew to be called from the other headquarters rather than using the upgraded employee as part of the crew as the work performed by the upgraded employee was not within the scope of the language contained in Section 7.2 since the upgraded employee assumes the identity of an exempt supervisor while on a tag.

On the basis of the foregoing, this case is considered closed and such closure should be noted by the Local Investigating Committee.

  
DAVID J. BERGMAN, Chairman  
Review Committee

  
ROGER W. STALCUP, Secretary  
Review Committee

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