

REVIEW COMMITTEE**PG and E****IBEW** 

PACIFIC GAS AND ELECTRIC COMPANY
245 MARKET STREET, ROOM 444
SAN FRANCISCO, CALIFORNIA 94106
(415) 781-4211, EXTENSION 1125

JUN 13 1988

**CASE CLOSED
LOGGED AND FILED**

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 4790
WALNUT CREEK, CALIFORNIA 94596
(415) 933-6060
R.W. STALCUP, SECRETARY

D.J. BERGMAN, CHAIRMAN

RECEIVED JUN 10 1988

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

San Francisco Division Grievance No. 2-1407-86-145
P-RC 1199

June 7, 1988

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

JOE VALENTINO, 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 5A(i) of the grievance procedure, to the Local Investigating Committee for settlement in accordance with the following:

Subject of the Grievance

This case concerns denial of sick leave pay on September 25, 1986.

Facts of the Case

On Wednesday, September 24, 1986, the grievant went home sick from work after contacting Dispatch, which is the normal reporting procedure. He did not talk to his supervisor. On Thursday, he notified Dispatch at approximately 7:00 a.m. that he would not report for his 2 p.m. - 10 p.m. shift. He stated he was then driven to his girlfriend's house where he stayed. On Sunday, the grievant began a scheduled five-day vacation. On Monday, the grievant left the area on vacation.

The supervisor made three telephone attempts and one visit to the grievant's house on Thursday but was unable to contact him. The supervisor suspected that the grievant may not have been utilizing sick leave for its intended purpose because approximately two weeks before the grievant had called in sick prior to his three non-workdays, followed by five days of vacation and two more non-workdays.

The grievant returned to work on Sunday, October 5, 1986. On Wednesday, October 8, 1986, the supervisor told the grievant he would not be paid sick leave for September 25 unless he provided proof of illness. The grievant had not visited the doctor and did not provide the requested proof.

The grievant was not previously on notice to provide proof nor does it appear from the record that he'd been counselled before about excessive use or

suspicious patterns. The supervisor stated he had called the grievant at home before when he was off sick. The grievant confirmed this and stated he'd always been paid sick leave in the past. His record evidences long service and a substantial amount of accumulated sick leave.

The grievant was initially paid for the day in question and then it was later deducted from a November paycheck.

Discussion

The Committee discussed the provisions of Section 112.8 of the Agreement, Review Committee Decision File Nos. 1205 and 1256, and Pre-Review Committee 968. The Committee specifically noted language from Paragraph one on Page 3 of Pre-Review Committee 968:

"If proof is being required because of a particular suspicious absence, the supervisor should make the request for proof at the earliest opportune time."

During discussion of P-RC 968, Union members of the Committee argued that even in those unusual situations where suspicious circumstances are present, where Company may request satisfactory evidence of illness, such requests should be made early enough to allow the employee a reasonable opportunity to comply.

Union expressed a desire to protect its members from late or untimely requests, noting that a request for evidence of illness several days or weeks after the illness could create a situation where it would be virtually impossible for the employee to comply. Company members of the Committee expressed concern with limiting management's rights pursuant to Section 112.8. After considerable debate, the Committee concluded that no statement could be formulated that would be applicable to all cases. Each case has its own particular facts and circumstances.

In the instant case, it was noted that the supervisor made the request for proof four days after the employee returned from vacation. The supervisor should have informed the grievant of the proof requirement sooner. This could have been accomplished had the supervisor left a note at the employee's residence on September 25; or by sending a letter to his home while he was on vacation.

Union Committee members pointed out that the grievant did notify a Service Operator both days that he was absent and that this is the accepted practice in this Department and headquarters.

Decision

The Committee noted the following facts, all of which are specifically related to this case:

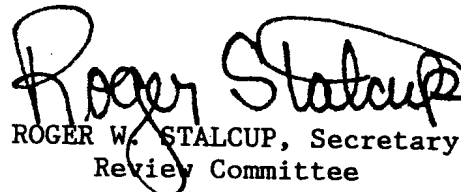
- the grievant was not on notice to provide proof of illness
- the request for proof should have been more timely
- no prior counselling regarding attendance

- the grievant followed the call-in procedures
- the supervisor's past suspicions about the grievant's absences have resulted in the grievant being paid sick leave
- Company did not convincingly demonstrate that abuse occurred.

The Pre-Review Committee agreed to pay the grievant sick leave for September 25, 1986, provided he has accumulated sick leave available at this time. The Committee further agreed that the facts of this case, that is, the grievant's two illnesses just prior to two vacation periods that were separated by only a few weeks time did raise a reasonable suspicion of abuse of sick leave as contemplated by Review Committee File Nos. 1205 and 1256.

This case is closed on the basis of the foregoing and the adjustment provided for herein and such closure should be so noted by the Local Investigating Committee.


DAVID J. BERGMAN, Chairman
Review Committee


ROGER W. STALCUP, Secretary
Review Committee

MAShort(222-1123):mc