



# REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY  
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**CASE CLOSED** SEP - 6 1988  
**LOGGED AND FILED**  
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INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, AFL-CIO  
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D.J. BERGMAN, CHAIRMAN

East Bay Division Grievance Nos. M1-2726-87-164  
and M1-2738-87-176  
P-RC 1272

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

STEVE RAYBURN, Company Member  
East Bay Division  
Local Investigating Committee

CORB WHEELER, Union Member  
East Bay Division  
Local Investigating Committee

## Subject of the Grievances

This case involves two grievances. In the first, the grievant, a Foreman's Clerk in Hayward, received a five-day disciplinary layoff confirmed in a letter dated November 4, 1987 for reporting to work unfit for duty. In the second case, the grievant was discharged on December 23, 1987 for again reporting to work unfit for duty.

## Facts of the Cases

### Grievance No. M1-2726-87-164

On October 22, 1987, a supervisor was alerted by an employee that the grievant had caused an automobile accident in the Company's employee parking lot while arriving at work. Upon investigating the incident, the grievant was found in his vehicle in a condition that strongly suggested alcohol intoxication. This suspicion was confirmed by a police officer called to the scene to investigate the accident. On October 6, 1987 a similar incident had occurred. The supervisor was informed at approximately 7:30 a.m. by an employee that the grievant's speech was slurred and it was difficult to understand him on the radio. The grievant was observed at his work station and determined to be unfit for duty and apparently under the influence of alcohol. At 11:30 a.m. the grievant was seen by a doctor who concluded that the grievant did not appear to be impaired at that time, but a clear determination could not be made without urinalysis or a blood test, both of which the grievant refused to submit to. The supervisor recommended disciplinary action for the October 6, 1987 incident, but before the action could be executed the October 22, 1987 incident occurred. Based on both incidents, the grievant received a five-day disciplinary layoff confirmed in a November 4, 1987 letter. The letter urged the grievant to avail himself of the services of the Employee Assistance Program (this was not the first supervisory referral) and concluded by stating that "This discipline should be regarded by you as the Company's last attempt to assist you with your problem. Further incidents of this nature will be grounds for discharge."

Grievance No. M1-2738-87-176

On December 1, 1987, the grievant reported late after the supervisor contacted him and told him to come in to work. On December 2, 1987, he was observed sleeping at his work station and was counselled. On December 3, 1987, the grievant was again observed at 7:30 a.m. asleep at his work station by a supervisor. The supervisor was on his way to solve another problem so he did not deal with the situation at that time. At 8:30 a.m., the General Foreman asked where the grievant was and was told by an employee that the grievant was "out of it" and was talking to a shop steward. A short time later the shop steward approached the General Foreman and asked him for a day off on personal business. The steward indicated that the grievant had admitted to an alcohol abuse problem and wanted to seek treatment. The General Foreman went to see the grievant who was in the shop steward's personal vehicle. Upon arriving at the vehicle, the grievant was found asleep. When woken, the grievant stated that nothing was wrong. However, he was observed by four supervisors who agreed he was unfit for duty based upon his unsteady gait, incoherence, slurred speech, strong odor of alcohol on his breath, and general impairment of motor functions. The grievant was suspended and told to call in each morning until notified otherwise. On December 23, 1987, the grievant was discharged.

Discussion

In discussion of this case, the Committee noted that at the time of his discharge the grievant had approximately 19-1/2 years of service. His disciplinary history prior to the five-day layoff, which is the subject of grievance No. M1-2726-87-164, consisted of: a letter of reprimand for no-call no-show on August 31, 1987; and a letter and one day off for no-call no-show on October 15, 1987.

The Committee spent a great deal of time reviewing information provided by the grievant to the LIC concerning steps he took in an attempt to deal with his alcohol abuse problem prior to his discharge. In addition, the Committee was provided with information from the Employee Assistance Program, the release of which had been expressly authorized by the grievant. Although the dates do not in all cases coincide, the Committee determined from the information provided by the grievant and EAP that the grievant's first contact with EAP was on October 23, 1987, the day following the precipitating incident in Grievance No. M1-2726-87-164. EAP recommended that the grievant visit his personal physician to evaluate the need for an alcohol rehabilitation program. The grievant did visit his physician and that physician recommended that he see a psychologist or psychiatrist. On approximately November 3, 1987, the grievant made an appointment to see Dr. Bradley, a psychiatrist. The grievant's first visit with Dr. Bradley was on November 10, 1987. According to the grievant, he also had appointments with Dr. Bradley on November 17, 1987, December 2, 1987, and December 21, 1987.

The grievant also indicates that on December 10, 1987, he met with EAP and was referred to Merritt Hospital for detoxification. The EAP contact log does not contain a notation for December 10, 1987 but does have a notation on December 14, 1987 indicating "Cronin House". The grievant was a resident in a

detoxification facility from December 15, 1987 through December 18, 1987 and was referred to Cronin House, an in-house rehabilitation facility which requires a seventy-two hour detoxification prior to admittance to their forty-five day program. The grievant was on the waiting list for admittance. During the grievant's December 21, 1987 visit with Dr. Bradley, the doctor wrote a "To Whom it May Concern" letter verifying the above, although there is no indication that this letter was given to the Company until the date of the discharge LIC. It does appear that the grievant called in each day of his suspension from December 4 to December 23, 1987 except for the days he was in the detoxification facility. It stands to reason that the grievant informed his supervisor of the reason why he would not be calling in on those three days.

The Union argued that the discharge of the grievant was improper in light of the grievant's long service, the relatively brief span of discipline prior to termination (approximately three months from the first action), and the steps the grievant took prior to and following the incident that resulted in discharge, but before the discharge action was implemented. Union noted that denial of a problem is common in the case of an alcoholic. While the grievant continued drinking in the face of his November 4, 1987 disciplinary letter which very explicitly warned that discharge was the next step if his drinking again manifested itself in an on-the-job problem, he was contacting professionals to deal with his abuse. Union posited that while the grievant's documented descent in the disciplinary procedure was rapid, his drinking problem was long-standing. It was not unreasonable to believe that addressing his problem would also take some time. Unfortunately, the incidents of December 1-3, 1987 occurred before the problem was resolved. However, his efforts should be considered in mitigating the Company's action.

The Company noted that it must focus on the job related impact of an employee's behavior. In this case, the grievant's unfitness for duty on two dates in October of 1987 warranted the five-day disciplinary layoff and the severe condition precedent that further similar acts will result in discharge. Only one month later the grievant was again unfit for duty. Given the previous justified discipline and clear warning, Company's action to discharge the grievant was proper.

In further discussion of this case, the Committee reviewed a number of other decisions, the most recent of which was P-RC 1206. In that case, the discharge of a long-service employee with a rapid deterioration of performance and attendance was sustained. The grievant in that case claimed a substance abuse problem. Distinguished from the instant case, however, the claim of substance abuse and seeking of treatment occurred after the discharge.

While agreeing that seeking treatment for a substance abuse problem prior to discharge is not at all a guarantee for avoiding an otherwise proper discharge, the Committee believes that it is a factor in consideration for mitigation. The Committee agrees that this factor in the present case in conjunction with the grievant's long service and relatively rapid decline as evidenced by his compact disciplinary history warrants mitigation of the discharge.

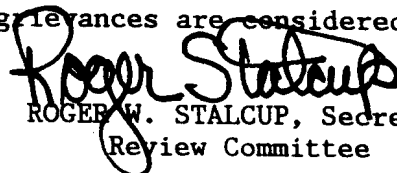
Decision

Grievance No. MI-2726-87-164 is settled without adjustment. For settlement of grievance No. MI-2738-87-176, the Committee agrees to reinstate the grievant to his former position of Foreman's Clerk in Hayward without backpay by placing him on a medical leave of absence with benefits retroactively intact (except for vacation adjustment pursuant to Subsection 111.5(a)) with the following conditions:

1. The grievant must submit to and pass an alcohol screen.
2. Grievant will be placed on a DML on his return date. Upon his return, a meeting with the grievant, a shop steward, supervisor and/or Human Resources Representative will take place to explain the provisions of this agreement and the total employment aspect of a DML.
3. The grievant must enroll and participate in an EAP approved alcohol rehabilitation after-care program for one year following reinstatement.
4. Grievant must provide confirmation to EAP of his attendance at an alcohol rehabilitation after-care program in accordance with a schedule recommended by EAP for a one-year period. EAP will inform supervision if the grievant does not comply with this provision.
5. Grievant will be required to submit to up to four random alcohol screens in the year following his return to work. In addition, if a supervisor has a reasonable suspicion that the grievant has used alcohol, grievant may not refuse to submit to screening or refuse to release the results of the screen.
6. Grievant must abstain from alcohol while in the employ of PG&E.
7. Any alcohol-related misconduct during a one-year period following reinstatement shall result in the grievant's discharge and his recourse to the grievance procedure shall be limited to a determination of whether the incident occurred. Following the above time period, any alcohol-related misconduct shall be subject to a full and complete review in the grievance procedure to determine just cause. Other incidents resulting in discipline or discharge are subject to review in the grievance procedure for determination of just cause.

On the basis of the above, these grievances are considered closed.

  
DAVID J. BERGMAN, Chairman  
Review Committee

  
ROGEE W. STALCUP, Secretary  
Review Committee