



1395

REVIEW COMMITTEE

7.1 - Discharge for excessive absenteeism overturned - Improper utilization of PD.

SEP 19 1990

IBEW



PACIFIC GAS AND ELECTRIC COMPANY
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SAN FRANCISCO, CALIFORNIA 94106
(415) 973-1125

**CASE CLOSED
LOGGED AND FILED**

RECEIVED SEP 18 1990

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

D.J. BERGMAN, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

General Construction Grievance No. 3-2035-89-140
P-RC 1429

BYRON TOMLINSON, Company Member
General Construction
Joint Grievance Committee

BARRY HUMPHREY, Chairman
General Construction
Joint Grievance Committee

Subject of the Grievance

This case concerns the discharge of an Apprentice Lineman for excessive unavailability.

Facts of the Case

The grievant was given a Decision Making Leave on August 17, 1989 for continued unavailability. He received his first coaching and counseling on January 19, 1989 from his immediate supervisor, a Subforeman. On March 21, 1989, he received an oral reminder after missing six days off sick and two days off without permission. He received a second coaching and counseling on May 1, 1989 after having missed an additional four days sick and one day without permission. After missing an additional four days sick and nine days without permission, the grievant was given a Decision Making Leave due to the extremeness of the situation.

The grievant was again informed at the time of his Decision Making Leave that his unavailability was unacceptable. Grievant was advised, however, that the Company would grant him time off with permission to go to court if the Grievant advised the Foreman of the dates ahead of time. The Foreman also advised the grievant that he would have to provide proof of illness for any future incidents of sick leave.

After the Decision Making Leave, the grievant was given time off for court appearances on four separate occasions. Between the second and third occasion, the Subforeman again counseled the grievant that excessive time off could lead to his discharge. Grievant, however, did not perceive the meeting as a coaching and counseling session. Grievant did inform the Subforeman that the Foreman had authorized him to take the necessary time off for court appearances.

On November 1, 1989, the grievant called his Subforeman requesting the day off to finish moving his household goods because he was being evicted. Grievant had received his eviction notice two weeks prior but was attempting to get money together to avoid the eviction.

The Subforeman informed the grievant he would not give him permission to take the day off. When the grievant reported to work the next day, he was terminated for excessive unavailability.

Discussion

The Company argued that the positive discipline procedures were followed and that the coaching and counseling session which occurred was a warning to the grievant that the Company did not want the time-off requests to continue. The Company also argued that the grievant knew two weeks in advance of his scheduled eviction, yet he called on the morning of the eviction. Company believes it properly communicated concern and forewarning to the employee.

Union argued that the grievant believed that he could be off work as long as he had a bonafide excuse. The grievant felt that requesting a day off to move his goods because of eviction was a bonafide excuse.

Union also noted that every coaching and counseling the grievant received was administered by the Subforeman which is totally inappropriate under the Positive Discipline Guidelines. The Union also noted that the Company had inappropriately skipped the Written Reminder step.


Company responded that the employee's lack of grievance for the DML is indicative that he knew his behavior was inappropriate. In addition, the employee was aware of the likely consequences of his continued unavailability.

Decision

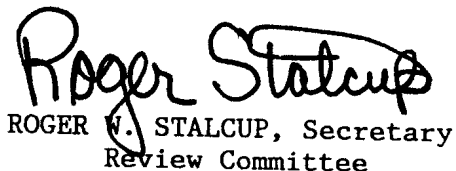
The Committee, after considerable discussion, determined that the grievant's availability record was indeed very poor. However, the case was procedurally flawed in two ways: the coaching and counselings performed by a Subforeman, and the confusing messages regarding time off.

Based on that, the Committee agreed to reinstatement without back pay. The grievant is to be placed at the DML step of Positive Discipline upon his return. The DML will remain active for 9-1/2 months from his start date (for a total of one year).

Based on the foregoing, this case is closed on this basis, and such closure should be noted in the Joint Grievance Committee minutes.



DAVID J. BERGMAN, Chairman
Review Committee
LLBates(3-5451):rps



ROGER W. STALCUP, Secretary
Review Committee