



REVIEW COMMITTEE



IBEW

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CASE CLOSED
FILED & LOGGED

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

MARGARET A. SHORT, CHAIRMAN

De Anza Grievance No. DEA-97-04
Fact Finding File No. 6550-97-081
Pre-Review Committee No. 2117

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

YVONNE WONG
Company Member
Local Investigating Committee

KATHY MAAS
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the discharge of a long service Troublemaker for carrying an unlicensed firearm in his company truck and using it to shoot a dog.

Facts of the Case

The grievant had 26 years of service at the time of the incident leading to his discharge. He had no active discipline and had not been disciplined in the past.

On Saturday, February 15, 1997, the grievant was called out on emergency overtime. When he arrived at a residence in San Jose with a wire down in the backyard, he was confronted by three neighborhood dogs. He shook a hammer at them and they ran away. The grievant then proceeded to work in the customer's backyard. After a period of time he returned to his truck to get a part. He noticed the dogs still across the street.

He went to the passenger side of the truck, opened his utility bag, removed his gun, loaded it, and put it down on the driver's side of the seat. The grievant stated he did this as a precaution, that he did not feel unsafe at that time. The grievant then walked around the back of his truck to the driver's side. He then opened the driver's side door to get a cigarette lighter from the console to light his cigar. At that point, the dogs started across the street. He reached for his gun, turned around and saw the dogs about 3 feet away. He also noticed a change in the eyes of one of the dogs at that moment. The look in the dog's eyes made him believe he was in danger, so he shot the dog.

The grievant was a certified range master (1988-1992) and also completed a certificate program in 1991 in Post Certified Law Enforcement Training which included firearms training.

The grievant did not have a license or permit to carry the gun, a concealed weapon. He indicated the sheriff would not issue a license or permit to a private citizen to carry a concealed weapon.

Standard Practice 735.6-1, Employee Conduct, Paragraph H.1, dated 3/15/93 lists as prohibited behavior:

"Introducing or possessing firearms on company property, either owned or leased, or in a company vehicle, owned or leased."

Discussion

The Union argued that the grievant was not aware that it was in violation of the Employee Conduct Standard Practice to carry a firearm in the company truck as this was not specifically listed in the 1989 version of the Standard Practice which the grievant reviewed and signed. Further the Union argued that the grievant felt threatened by the dogs and took what he felt at the time was the only viable action and that Troublemans do not receive any training on how to handle dangerous animals. Finally, the Union argued that the discharge should be mitigated because of the grievant's long service and good record, no discipline.

Company responded that not only did the grievant violate the Employee Conduct Standard Practice, but also state laws governing carrying a concealed weapon and discharging a weapon in a public place. It is quite apparent from the sequence of events that the grievant had several alternatives to shooting the dog.

His actions resulted in a \$4000 claim for veterinary bills and filings for other claims not yet resolved. His actions also reflected poorly on the Company's image and reputation. While Troublemans may not receive specific training in handling dangerous dogs, they are issued dog repellent spray and can issue a CGI tag (Can't Get In) if dogs are really a problem at a customer's property. Finally, Company stated that the grievant's actions on February 15 were so serious that his length of service and good record did not outweigh his actions and that discharge was the appropriate penalty.

Decision

After lengthy discussions of this case at each step in the grievance procedure, the Pre-Review Committee agrees that the discharge was for just and sufficient cause.

This case is closed without adjustment.

Margaret A. Short
Margaret A. Short, Chairman
Review Committee

11/18/97

Date

Roger W. Stalcup
Roger W. Stalcup, Secretary
Review Committee

11/18/97

Date