



REVIEW COMMITTEE

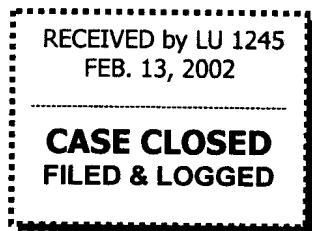
IBEW



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MARGARET A. SHORT, CHAIRMAN

DECISION
LETTER DECISION
PRE-REVIEW REFERRAL



INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
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WALNUT CREEK, CALIFORNIA 94596
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SALIM A. TAMIMI, SECRETARY

Pre-Review Committee No. 12635 Electric Control Center Operations – Fresno

Idalina Calhoun
Company Member
Local Investigating Committee

Jim Lynn
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the discharge of a System Operator for falsification of timecards, the D.O. Log, and switching error.

Facts of the Case

There are ten System Operators at the Operations Center in Fresno. On February 2, 2001 a temporary supervisor was performing a routine weekly audit of the station log and switching logs. In so doing, he noted two entries with different times on January 28 showing the grievant's assuming shift. The temporary supervisor conveyed this information to the regular supervisor upon his return from vacation. The regular supervisor reviewed the grievant's timecard for the date in question. It showed he worked his regular schedule. The supervisor then questioned one of the other Operators who made an entry on the D.O. Log showing the grievant arriving late. The Operator confirmed the information concerning a late arrival was accurate.

The supervisor then requested the gate logs showing entry into the parking lot. It showed the grievant entered the gate one hour and 38 minutes after the scheduled start of his shift. The supervisor identified two other instances of the grievant's late arrival which was not reflected on his timecard. The total amount of time for the three instances was three hours and 58 minutes.

The supervisor then, at the instruction of the Superintendent, reviewed the various logs for the prior one year period, however, the gate log was available only back through May 2000. The supervisor found numerous discrepancies. At this point Corporate Security was notified and an investigation was begun. The investigation resulted in Security reports for nine of the Operators. The tenth one had recently reported to Fresno and had not been involved.

Five of the nine were disciplined with either a Written Reminder or DML. Those who made false log or timecard entries for themselves only, received a Written Reminder. Those who made false entries for themselves and others, received a DML. The grievant made an entry on the May 13, 2000 D.O. Log that another Operator arrived at 11 p.m. but the gate log showed that employee arriving at 12:08 a.m. The four employees who were not disciplined provided information to the supervisor as to their whereabouts on the dates in question. Based on that information, no discipline was taken.

The gate log records were lost after the conclusion of the Security investigation. These records are kept only for one year. As a result, Company could not present the evidence of the late arrival for the May 13, 2000 date which is the entry for another employee that escalated the discipline to a DML for the grievant.

Prior to administering discipline for the timecard and log falsifications, the grievant committed several operating and safety procedure errors while directing a Troubleman in the field who was trying to locate and repair the source of an outage. The grievant's actions jeopardized the safety of the Troubleman; did not accurately record on the switch log his actions or that of the Troubleman; extended the outage time, extended the outage area, and caused additional equipment damage. The morning report does not reflect the information recorded on the switch log, which it should.

Because the decision had been made that the timecard incidents warranted a DML, the decision to terminate was made based on the events of March 10. The grievant had no active discipline at the time of his discharge effective April 11, 2001. He had almost 23 years of service.

Discussion

The Union alleged that it is common practice among Operators to come in late and make the time up, as is evidenced by the involvement of all the Operators. Union also questioned whether the gate logs can be relied upon noting that Operators may park on the street and then enter the lot later or any variety of scenarios.

Company responded that the supervisor denied knowledge of a "come late; stay late" practice. The Company PRC member stated the recording on various official company records of an employee's presence at work, when that is not factual, is falsification of Company records, a very serious offense. It is of utmost importance that Company documents be accurate as there is always the possibility of their being needed in a legal proceeding or investigative proceeding.

However, the Company's case for DML for this grievant was undermined by the lost gate records and the bases for the decision not to discipline some employees and to reduce it for others. The explanations provided by those employees did not prove Company's initial allegations untrue.

As to the events of March 10, 2001, the Union questioned why the Company did not investigate it and take disciplinary action on it while the other investigation continued.

Union alleged that Company rolled everything together and discharged the employee, never even giving the DML day. Further, Union argued that a Written Reminder is the appropriate level of discipline for such an error. The Union stated there was no just cause for discharge.

Company stated the grievant's actions were very serious and created more of a problem than there was initially and that he jeopardized the safety of the Troubleman. Company agreed with Union that most switching and operating errors result in a Written Reminder (absent any other active discipline in WP), but that some errors have a much greater consequence or impact and all should not be treated the same.

This case has been discussed on several occasions for significant amounts of time at various steps of the grievance procedure. The PRC concluded that there was not just cause for discharge based on all of the facts, some of which became known after the discharge decision. It also concluded that the DML for the timecard falsification should be reduced to a WR consistent with the factors considered in that disciplinary decision.

However, the Committee continued to debate the appropriate level of discipline for the work performance issues of March 10, 2001. Finally, the PRC found a basis on which to close out this case by noting that the Review Committee recently signed (in 2002) Decision 11575. This decision establishes DML criteria for switching errors. The error at issue in this case occurred prior to this understanding between the parties.

Decision

Without prejudice to the position of either party, the PRC agreed to the following:

- Reinstatement with benefits in tact; and one-half back pay between April 11, 2001 and January 23, 2002; and full back pay from January 24, 2002 until the date of return.
- A Written Reminder in Conduct for the timecard falsifications. A Written Reminder in Work Performance for the operating and safety errors. Both will be active for one year from the date of return to work.

This case is closed on the basis of the foregoing adjustments.

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

2/11/02
Date

Sam Tamimi
Sam Tamimi, Secretary
Review Committee

2-11-02
Date