

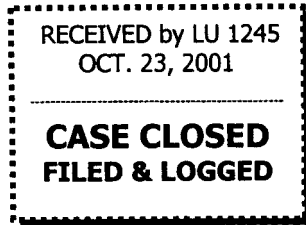
7.1: Discharge of a Provisional Elect. Meter Sys. Tech. resulting from his conviction of a felony that involved lewd acts upon a child is for just and sufficient cause.



REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY
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INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 4790
WALNUT CREEK, CALIFORNIA 94596
(925) 933-6060
SALIM A. TAMIMI, SECRETARY

MARGARET A. SHORT, CHAIRMAN

DECISION
LETTER DECISION
PRE-REVIEW REFERRAL

Pre-Review Committee No. 12670

Margaret Franklin
Company Member
Local Investigating Committee

Gary Hughes
Union Member
Local Investigating Committee

Subject of the Grievance

This concerns the discharge of a Provisional Electric Meter Systems Technician resulting from his conviction of a felony that involved lewd acts upon a child.

Facts of the Case

Between October 2 and 11, 2000 the Grievant was incarcerated on charges of Continual Sexual Abuse of a Child, Lewd Acts Upon a Child, and Child Molesting. Vacation was granted to cover this time frame. The Grievant returned to work on October 12. Sometime during the week of October 12, the Grievant informed his supervisor that he was scheduled for arraignment on December 11. Based on the nature of the charges and a November 10 Temporary Court Order requiring the Grievant to "stay away from minor children unless responsible adult present," it was decided that he could not work in the field. The Grievant was assigned to perform inventory at Company facilities.

On October 19, the Grievant pled guilty to committing Lewd Acts Upon A Child and executed a Harvey waiver, thereby allowing the Court to consider the other two charges for sentencing purposes. The Joint Statement of Facts indicates that at the time of the November 10 meeting with the Grievant, Company believed his guilt or innocence was to be determined at the December 11 hearing. Company was not aware at that time of the guilty plea.

The Grievant's attorney provided the HR Advisor with a copy of the Order of Court/Conditions of Probation dated January 5, 2001. It detailed 22 recommendations with which the Grievant was to comply. Recommendation number 10, stated:

"The defendant shall not reside or loiter within 100 yards of any school, day-care center, arcade, swimming pool, or amusement park where children regularly are present without written permission from the Probation Officer."

Recommendation number 16, required him to register as a sex offender on an annual basis for the rest of his life pursuant to Penal Code Section 290. The Grievant was also ordered not to engage in activities in which children regularly participate.

Effective April 30, 2001 the Grievant was discharged for cause. The termination letter states:

“As a meter technician you perform work on behalf of the Company at private residences, businesses and public locations, including areas where children regularly congregate, such as schools, day-care centers, public swimming pools, and recreation centers. Your status as a convicted felon and a registered sex offender is incompatible with your continued work as a PG&E representative on the property of PG&E and its customers.”

At the time of his discharge, the Grievant had 16 years of service and no active discipline.

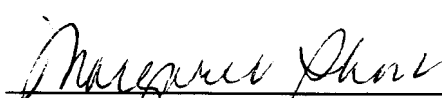
Discussion

The Union opined that Company should accommodate the Grievant in a classification that would not bring him into contact with customers or children such as an Electrician, a position he had previously held at the Company. Union noted that the Grievant’s criminal conduct did not take place during working hours, on Company property, or at a job site.

Company responded that the Company is not obligated to look for an alternate job placement under these circumstances, as the Grievant’s inability to perform is not due to a disability. The Company also expressed concern about negligently retaining an employee who had been convicted of such a crime and the significant liability the Company would face if the Grievant engaged in similar conduct in the future while on duty. As a Provisional Metering Systems Technician, the Grievant could be dispatched to many locations where children frequent, without supervision present. Further, the Company stated that even in classifications where employees generally work only in Company facilities, the employees still must travel to and from those facilities. Moreover, PG&E employees have high public visibility, more often than not are viewed by the public as trustworthy, and can gain access to residences and other facilities where children reside by using their PG&E identification.

Decision

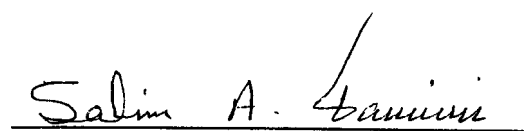
The Pre-Review Committee agreed that this discharge was for just and sufficient cause. This case is closed without adjustment.



Margaret A. Short, Chairman
Review Committee

10/19/01

Date



Sam Tamimi, Secretary
Review Committee

10-19-01

Date