



REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY
2850 SHADELANDS DRIVE, SUITE 100
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RECEIVED by LU 1245
MAR. 26, 2002
**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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SALIM A. TAMIMI, SECRETARY

MARGARET A. SHORT, CHAIRMAN

DECISION
LETTER DECISION
PRE-REVIEW REFERRAL

Pre-Review Committee No. 12688
OM&C – Electric Operations – Salinas

Joe Cerruti
Company Member
Local Investigating Committee

Bill Brill
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the discharge of a System Operator who was absent from work without permission in excess of ten consecutive days due to incarceration.

Facts of the Case

The grievant was arrested at his home on April 12, 2001 for threatening a police officer and resisting arrest. He stated he had been drinking and was intoxicated. The grievant remained in jail until May 4, 2001 when he was hospitalized for severe depression, but still under custody. When he was released from the hospital on May 16, he was returned to jail. On May 29, the grievant was released from jail and required to participate in an intensive outpatient treatment program for alcohol dependence. On June 27, the grievant was found guilty of the felony charges and sentenced to three years probation. He was also prohibited from the use or possession of alcohol, required to take prescribed medication, attend AA meetings, and complete rehabilitation and 12 months of aftercare.

Company sent grievant a letter dated April 25, informing him he needed to return to work prior to May 5 or he would be considered to have resigned. Grievant testified that his attorney told him that if he was hospitalized, Company could not terminate him.

Grievant further testified that he had a similar episode in 1999 resulting in hospitalization. He testified he received assistance from EAP and was off work approximately five weeks during which time he used sick leave and vacation. He was not incarcerated.

Grievant was discharged effective May 6, 2001. At the time he had no active disciplinary action and had 21 years of service.

Discussion

Union argued that the grievant should have been allowed to use sick leave while he was hospitalized thereby interrupting the unauthorized absence. Further, he should not have been terminated because the only reason he was incarcerated is because he threatened suicide and things got out of hand when the police were called. Union noted the grievant successfully completed an alcohol treatment program and had been released from jail.

Company responded that when the grievant was hospitalized, he was still a ward of the court. When he was released from the hospital he was returned to jail where he remained another 13 days. Company cited PRC 1251 in which the parties agreed that leaves of absence are not granted to employees who are incarcerated and RC 1816 reaffirmed that policy and further stated that the granting of vacation to employees who are incarcerated is contingent on operational need. The grievant in this case was allowed to use available Floating Holidays and vacation, but not sick leave.

Finally, with the permission of the grievant, the parties requested information from EAP as to their involvement with the grievant. The record indicated extensive contact with the grievant in 2000 and 2001. It was recommended that the grievant abstain from alcohol, enroll in rehab, and that he seek psychiatric treatment. He did not follow the recommendations.

Decision

The PRC is in agreement that there was just and sufficient cause for discharge. This case is closed without adjustment.

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

3/25/02
Date

Sam Tamimi
Sam Tamimi, Secretary
Review Committee

3-26-02
Date