

612.2: This grv. challenges a practice of conducting physical assessments of those returning to climbing classifications after 30 or more days off work due to disability or illness. The Comm. was informed that no further assessments have been performed since the filing of this grievance; as there was no change to the grv's status, the PRC agrees to close this case without adjustments



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MARGARET A. SHORT, CHAIRMAN

DECISION  
LETTER DECISION  
PRE-REVIEW REFERRAL

## REVIEW COMMITTEE

**IBEW**



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

RECEIVED by LU 1245  
AUG. 30, 2002

**CASE CLOSED  
FILED & LOGGED**

Pre-Review Committee No. 13102  
OM&C Electric T&D - Area 4, Selma

Monica Oakes  
Company Member  
Local Investigating Committee

Jim Lynn  
Union Member  
Local Investigating Committee

### Subject of the Grievance

This grievance challenges a practice of conducting physical assessments of those returning to climbing classifications after 30 or more days off work due to disability or illness.

### Facts of the Case

At least seven other employees were assessed in Fresno in the year preceding the grievant's October 22, 2000 assessment. At the time of the assessment, grievant had 23 years of service, all in the line department.

These assessments were all conducted without challenge in the grievance procedure and were known to the Union. A Shop Steward was present for the grievant's evaluation. The Business Rep stated he asked Company to develop criteria and standards and submit them to the Joint Safety or Joint Apprenticeship Committee and that had not been done.

Assessed were 1 Electric Crew Foreman, 3 Trouble men and 3 Linemen. One Lineman went on LTD instead of returning to work and one Troublemans spent three weeks on a crew upon returning. The others, including the grievant, successfully completed the assessment. All had been on Workers' Compensation or leave of absence and had surgery. The grievant had surgery on his wrist for carpal tunnel. Early on, the assessments were conducted within the first two weeks of return, but due to Union's request for consistency, the assessments were agreed to be conducted on the first day of return to work.

The grievant stated he was not informed of the need for the assessment prior to his return and was not prepared, as he did not have his line boots with him. Grievant stated he was told he would be sent home if he did not perform all the tasks in the assessment. Grievant was driven from Selma to Fresno and back by his temporary supervisor. Grievant stated he was winded when he completed the tasks.

The assessment consisted of:

- Climb up pole, circle around the top; climb down. Rest two minutes.
- Climb up, circle around to the other direction; climb down. Rest five minutes.
- Climb up, change out a pin and insulator at the end of an arm; climb down.

A 40' pole buried six feet in the ground and with 2' of saw dust and wood chips at its base was used.

After the assessment, the grievant went to work on a crew. Later that day, his back cramped out. He filed a pink slip. He returned to work the following day prepared to work. There were several conversations between the supervisor and the grievant about whether he wanted to see a doctor. The grievant consistently declined, opting to see his personal physician at the end of the day. The grievant reported to the Ethics and Compliance Hot Line that he was being required to see a doctor against his wishes because he had filed a pink slip. The grievant went home early on sick leave the second day as his "stomach was in knots because of the way he had been treated."

The supervisor in Fresno who conducted the assessment conducted all the others and had taken employees to Livermore for assessment before that. He stated the whole intent is to "identify employees who need additional help before returning to the full scope of their jobs...to ensure that employees returning from extended absences are physically ready to perform the essential functions of their job safely." The employees are only being asked to perform tasks provided for in the negotiated job definitions and for which they have been fully trained. Conducting the assessments in Fresno is a convenience for the employee and local management, as it doesn't require the longer trip to Livermore.

At the PRC step of the grievance procedure, additional information was obtained specifically, a copy of the Lineman Physical Skills Assessment procedure from the Lineman Training School in Livermore. The Director reviewed the Fresno assessment and found it very similar to what is administered at the School when requested.

#### Discussion

Union opined that these employees had been released to return to work and that Company was second-guessing the doctors. If Company had concern about the release, it should seek further medical clarification. Further, Union believes the assessment is unrealistic and excessive.

Company stated the assessment the grievant and others underwent was not a challenge to the doctor's release they had obtained. Rather, it was nothing more than asking climbing employees to perform certain duties of the position to which those employees have been released to assume. This practice has had local support from Fresno management level for about a year.

The PRC noted that both parties presented facts and concerns that have merit. The PRC acknowledges that, on a system-wide basis, Company has required journeymen climbing employees to undergo ability assessment for various reasons, such as safety concerns or retention issues. As these assessments have typically taken place at the Livermore

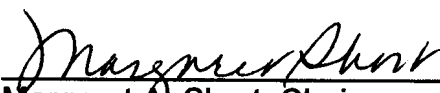
Climbing School, personal inconvenience to employees, travel costs, and productivity loss have resulted on many occasions. To promote greater flexibility for both Company and employee, a modified version of these assessments could be developed for local implementation, as long as selection criteria and evaluation standards are properly developed under the auspices of either the Joint Safety or Joint Apprenticeship Committee.

An alternative to the above structured approach is to modify the local practice to provide employees returning from all extended absences the voluntary opportunity to re-familiarize themselves to their assigned positions by performing certain key elements of their jobs. This approach is based on the premise that all employees, who have not performed their job assignments for quite sometime, would likely be interested in getting "up to speed" on their work as quickly and as safely as possible. In short, with facilitation by crew leader or supervisor, returning employees will be allowed to obtain a re-orientation to the job assignments to which they are returning and to seek whatever assistance they may deem necessary. Employees will be encouraged, but not be required, to undergo this process.

The PRC was informed that no further assessments have been performed since the filing of this grievance because no employee has returned from an extended absence. Any resumption of the local assessment practice in Fresno should occur only after it has been reviewed and revised in accordance with this Decision and consistent with all applicable employment discrimination principles.

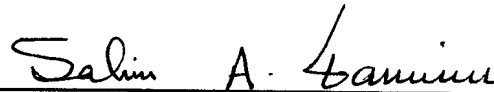
#### Decision

As there was no change to the grievant's status, the PRC agrees to close this case without adjustment based on the above discussion and understandings.



Margaret A. Short, Chairman  
Review Committee

8/29/02  
Date



Sam Tamimi, Secretary  
Review Committee

8-30-02  
Date