

7.1; 102.2: The discharge of a Lemoore Troubleman for submitting false time and expenses and failure to complete work assignment was for just cause; however, grv. retired in lieu of discharge, thereby making his moot.



PACIFIC GAS AND ELECTRIC COMPANY
2850 SHADELANDS DRIVE, SUITE 100
WALNUT CREEK, CALIFORNIA 94598
(925) 974-4282

MARGARET A. SHORT, CHAIRMAN
DECISION
LETTER DECISION
PRE-REVIEW REFERRAL

REVIEW COMMITTEE

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March 7, 2005

CASE CLOSED
FILED & LOGGED

IBEW



INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 2547
VACAVILLE, CALIFORNIA 95696
(707) 452-2700
SALIM A. TAMIMI, SECRETARY

Pre-Review Committee No. 15324 OM&C – Electric T&D - Lemoore

Monica Oakes
Company Member
Local Investigating Committee

Ed Dwyer
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the discharge of a long service Troubleman for continuing to submit time and expenses for which he was not entitled and failure to complete a work assignment.

Facts of the Case

At the time of discharge, the grievant had an active coaching and counseling in the Attendance Category; in the Conduct Category, he had an active Written Reminder and Decision Making Leave for submitting requests for meals, rest periods, and overtime not earned. The DML, given September 17, 2003, was grieved and upheld.

On July 8, 2004 the grievant was the on-call Troubleman. He worked his regular hours of 8:30 to 5:00 and an extension until 7:40 p.m. He was called out two times that evening and worked a total of 7 ¾ hours overtime. The grievant informed the Service Operator he would be on a rest period the following morning. He did not report at his regularly scheduled start time, but was called to report at approximately 10:00 a.m. He was not entitled to a rest period.

On July 13, 2004 the grievant was told by his Supervisor to install an overhead service. This was one of two tags that had been assigned to him at least the week before and the customers had been waiting for several weeks. The Supervisor instructed the Service Operator not to dispatch any other tags to the grievant that day. When the Supervisor checked the next day, neither of the service tags had been worked.

Also on July 13, the grievant worked an extension of the workday and was called out two times that evening for a total of exactly eight hours overtime and went off duty at 3:30 a.m. The grievant submitted a timecard for a full-day rest period. He was entitled to a morning rest period and should have returned to work for the afternoon. Additionally, the Supervisor was concerned about how long it took the grievant to perform the work, that it took longer than the Supervisor thought it should have.

On July 26 the grievant was on a full day rest period. He was called out at 4:30 p.m. and worked until 11 p.m. He was called-out again at 12:15 a.m. on July 27 and worked until 1:54 a.m. He earned a half-day rest period but took a full day. The grievant submitted a timecard for all hours worked at double time. Had he been at work in the afternoon, he would have worked four hours at time-and-one-half as an extension of the workday.

At the time of discharge, the grievant had used 120 hours of sick leave for the year.

Discussion

Given that the reasons for discharge were the same as the DML and Written Reminder there was very little room for the Union to argue that just cause did not exist for his termination. Union did request Company allow the grievant to retroactively resign in light of his 39 years of service.

Company responded that it was not inclined to do so as there was clearly just cause for discharge. Further, the grievant was given an opportunity to resign following his DML but chose to continue working and made the commitment to abide by all rules, policies, and procedures. Further, it was learned that prior to discharge the local HR Advisor asked the local Business Representative to talk to the grievant about retiring in lieu of discharge.

The grievant did, in fact, retire after being discharged thereby making his grievance moot.

Decision

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

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

3/4/05
Date

Sam Tamimi
Sam Tamimi, Secretary
Review Committee

3-4-05
Date