

212.10: Based on the understandings of on-call and stand-by, the Comm. agrees that no violation occurred on the issue whether a Vallejo Troubleman was placed on stand-by and entitled to compensation. Closed without adjustment.



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

REVIEW COMMITTEE

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CASE CLOSED
FILED & LOGGED



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SALIM A. TAMIMI, SECRETARY

Pre-Review Committee No. 15839 OM&C – Electric T&D – Vallejo

Carol Quinney
Company Member
Local Investigating Committee

Joe Osterlund
Union Member
Local Investigating Committee

Subject of the Grievance

The issue in this case is whether the grievant, a Troubleman, was placed on stand-by and entitled to compensation.

Facts of the Case

Vallejo Troublemens are on an ABC schedule (schedule implemented by the Company without Union agreement) and utilize a 212 (voluntary) emergency sign-up. They do not have a 212.10 arrangement with on-call built into the schedule. Company tried to negotiate a schedule acceptable to the Troublemens that would also meet Company's coverage needs but those discussions were unsuccessful. When the 212 list is exhausted, Company has informed the Troublemens that the employee covering the 1-9 shift for that week is the first to be called for emergencies.

Of the three Troublemens in Vallejo, the grievant had the lowest response rate. After receiving discipline for not meeting his obligation to provide customer service at other than regular work hours, his response improved. However, the grievant believed he had to stay at home in the event he was called out, that if he failed to respond, he would be disciplined.

When the grievant was on the 1-9 shift, he questioned the supervisor as to whether he was being placed on standby. The supervisor's response was that he was not going to pay the grievant unless he actually worked and the grievant could not make himself arbitrarily unavailable. The employee chose to stay home.

The Pre-Review Committee discussed Labor Agreement Interpretation, Title 212 – Emergency Duty – Physical Agreement, executed January 23, 1957. It states:

“Employees who have volunteered their services under the provisions of this Title are available for duty in case of emergency. They are referred to as being “on call” and the use of the term “standby” is incorrect.”

“An employee who is “on call” and available for duty is not working. His time may be used for his own purposes although he is required to leave word as to where he may be easily located and he is expected to be prepared to respond for emergency work should his services be required. He is not entitled to pay for the period in which he makes himself available.”

“An employee who is ordered to work but is told to await further instructions cannot use the waiting time for his own purposes. His waiting time in such case is referred to as “standby” and it is considered as time worked.”

Discussion

The Pre-Review Committee is in agreement as to the difference in the terms standby and on-call. When employees are placed on standby, they are not free to use their time for their own purposes and Company pays for their time at the overtime rate. When employees are on-call, they are making a commitment to be available for emergency response but are free to use their time for their own purposes and they are not paid unless they actually report for work.

The Company opines that the supervisor was very clear with the employee that he was not going to pay him. Their discussion is symptomatic of a larger problem and that is the grievant’s unwillingness to carry his fair share of the after hours calls and acting as a hindrance to reaching a schedule with on-call duties built into the schedule so all share equally.

The PRC reviewed a Letter Agreement dated February 11, 1964 which establishes the expectations and obligations for those employees that accept positions as Troublemens and Gas Service Representatives. This Agreement states:

“Since the Electric Troubleman and the Gas Serviceman have historically as a part of their duties answered customers’ calls at other than regular work hours, both Company and Union believe that the obligation of such service requirements as performed by employees in those two classifications is of maximum importance.”

“Within the scope of the intent and obligations expressed above it is understood that employees who hold the classifications mentioned should not arbitrarily make themselves unavailable and should respond to efforts made by the Company to contact them when they are needed at other than regular hours.”

In careful review of this case the Pre-Review Committee agrees that the supervisor indicated that the *first* called for emergencies, once the 212 list was exhausted, was the 1-9 shift Troubleman, as there is no dispute in the record that this is what he said. Additionally, the supervisor, when asked by the grievant if he was going to be paid for standby, indicated that he was only going to be paid for time worked and the grievant was to not make himself

arbitrarily unavailable for work. The grievant being warned in the past for his lack of response to emergencies literally considered himself on standby.

The Review Committee agrees that there is a concern that the grievant was not living up to his commitment to being available for work as a Service Employee. The nature of the business depends on having Service Employees responding to emergencies. The Review Committee further agrees that voluntary arrangements using the 212 list challenges the availability of Service Employees. In this case the *first* called indicates that the arrangement at the grievant's headquarters was a "catch as catch can" arrangement meaning that the grievant was the first to be called and if not available then the supervisor would go to another Troublemaker until he got someone to work.

It is the understanding of the PRC that there has been a change in the Troublemakers at Vallejo, and as such perhaps the parties can reach agreement on a schedule that shares the on-call responsibility equitably.

Decision

Based on the understandings of on call and standby, the Pre-Review Committee agrees that no violation of the agreement occurred. This case is closed without adjustment.



Margaret A. Short, Chairman
Review Committee

11/16/06

Date



Bob Choate, Secretary
Review Committee

11/16/06

Date