

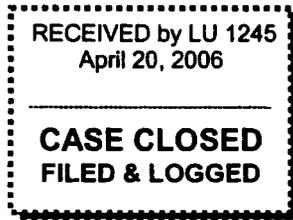
7.1: An Electrician who was discharged for inappropriate use of Co. computer will: be reinstated; have benefits restored; received back pay; placed on a DML for one year; be barred from being awarded a job; and, will receive a supervisory referral to EAP.



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

REVIEW COMMITTEE



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

Pre-Review Committee No. 16054 Transmission/Substation Maintenance & Construction Gates Substation

Idalina Calhoun
Company Member
Local Investigating Committee

Ed Dwyer
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the discharge of an Electrician for inappropriate use of a Company computer.

Facts of the Case

The grievant was on a DML for inappropriate use of a cell phone and Company computer, which was given just two weeks prior to the discharge event. On June 16, 2005, an Operating Clerk at Gates Substation reported observing the grievant looking at inappropriate pictures (pornography) on the Company computer. Corporate Security was notified the following day and an investigation initiated.

The Security report noted three new inappropriate e-mails received (since the DML investigation) by the grievant all from the same source. The Security report concluded that the grievant,

"received an inappropriate e-mail from a friend and that the e-mail noted, "Caution....Exposed breasts." The grievant, "ignored the note and opened the e-mail in a company office and on a company computer that exposed 18 bare-breasted women, which was witnessed by other PG&E employees."

Based on the Security report, the grievant was terminated effective August 3, 2005. The grievant denied opening any inappropriate e-mails that day.

The LIC report contains an exhibit which details the e-mails in the grievant's Inbox as of June 16, 2005. In addition to the three new e-mails, there was one inappropriate e-mail still in the Inbox from prior to when the DML was received. Three of the four e-mails, including the "exposed breasts" e-mail, were deleted by the grievant on June 16. This specific e-mail was not bolded when it moved to the Deleted folder, indicating it had been opened.

Discussion

At each step of the grievance procedure there were lengthy discussions of this case. Union noted that the e-mail at issue had an attachment and an imbedded URL link to an inappropriate website where visitors could vote on pictures of the 18 bare-breasted women. Union stated that the e-mail may have opened automatically as the prior read e-mail was closed or deleted; that many employees have their computers set this way; that the attachment to the e-mail has no pictures, just a score. Union asked for "footprints" that would show the grievant actually clicked on the URL to go to the inappropriate website.

At the Pre-Review Committee step of the grievance procedure, Company provided a URL report (footprints) of the websites visited by the grievant between June 12 and 18, 2005. That report indicates he visited many sites, but not the "bare breasted" site. Linking to that site from other Company computers prior to its being blocked, resulted in a footprint. Union opined that this proves the grievant did not visit that website.

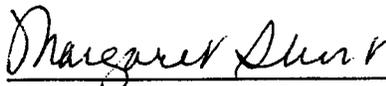
Corporate Security interviewed the witness twice and was convinced she did observe the grievant viewing inappropriate pictures on the computer, but her description is not consistent with what is on the "bare breasted" website.

Decision

Based on all of the facts of this case, the following equity settlement was reached and the grievant:

- will be reinstated as an Electrician in Fresno;
- will have benefits restored (in tact) except for vacation adjustment per Section 111.5(a);
- will receive back pay for ½ the period of time between discharge and reinstatement;
- will be placed on a DML active for one year from the date of return to work;
- will be barred from being awarded a job at Gates Substation while on the DML. If in the future, the grievant is the senior qualified bidder to a vacancy at Gates Substation, Company and Union will confer on whether he should be bypassed. Should the parties not agree, and Company bypasses the grievant, that decision may be challenged in the grievance procedure.
- will receive a supervisory referral to EAP.

This case is closed on the basis of the foregoing and the adjustments contained herein.



 Margaret A. Short, Chairman
 Review Committee

4/18/06

 Date



 Sam Tamimi, Secretary
 Review Committee

4-18-06

 Date