

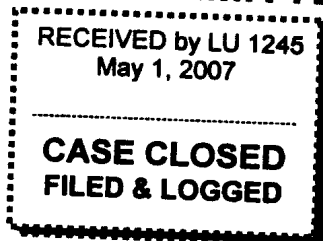
7.1: Agrees that the grievant was a casual employee (Utility Worker) and terminated for unsuitability and as such, this issue is not a proper subject for the grievance procedure.



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



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

Pre-Review Committee No. 16724 Energy Delivery – General Construction – Gas T&D

Nicole Collins
Company Member
Local Investigating Committee

Mike Saner
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the termination of a Utility Worker – GC for unsuitability.

Facts of the Case

The grievant was hired on September 29, 2005 as a Casual Utility Worker in San Carlos. On her first day of work, she informed Company she was pregnant and requested accommodation. Company sent the Utility Worker Job Function Analysis form to a medical doctor for evaluation. Based on the doctor's evaluation, grievant was assigned to work temporarily performing clerical duties.

From December 9, 2005 through April 17, 2006 the grievant was on maternity leave. She did not achieve regular status prior to maternity leave.

Prior to her return to work, the grievant submitted medical documentation that precluded her from Utility Worker duties for three months after return to work. She returned to work on April 18 to a temporary Operating Clerk in San Francisco on the condition that she meet the pre-requisites for the position. On May 24, 2006 she took the Clerical Test Battery but did not achieve the required results to successfully pass the test.

On June 9, 2006 the grievant was released for unsuitability as she did not qualify for the temporary Operating Clerk and she could not perform the duties of the Utility Worker. At this point, the grievant had not attained regular status and was still casual, as she had not completed 115 days of work in any period of six consecutive months.

Discussion

Union opined the discharge was without sufficient cause; the grievant should not have been required to take the Clerical Test Battery since it was a temporary assignment; she should have been allowed to continue in the temporary assignment; she was not taking any work away from or bypassing a qualified Operating Clerk; and she was a good performer based on the performance appraisal.

Company responded that this grievance is not a proper subject for the grievance procedure as this was not a for cause discharge, but a determination that a probationary employee was not meeting the requirements of the job for which she was hired nor did she meet the requirements for a temporary job as other employees are required to do.

Arbitration Case 15A (1964) establishes Company's right to terminate probationary employees for unsuitability without challenge through the grievance procedure.

"...the reasons given for discharge were those normally given in the selection of a probationary employee whose work performance is on trial. They included, according to the stipulation of the parties, accumulation of: 1. errors and 2. absenteeism. Such absenteeism was not shown to be willful or a violation of any course of conduct. For example, the absences were not shown to be without adequate excuse nor were they shown to be taken in violation of any possible rule, policy, or practice concerning notification to the Company. They were merely one of the elements during the trial period which the Company evaluated to determine whether or not ht employee's performance upon attaining regular status would, in the opinion of the company, be stable and reliable...." The grievant, under the facts herein stated, may not process a grievance concerning discharge under Title 9, Grievance Procedure of the Clerical Agreement."

The corresponding language of the Physical Labor Agreement has been interpreted and applied as above.

In 1988, the parties arbitrated an issue regarding test scores for clerical positions. In Arbitration Decision No. 156, the Arbitrator stated:

"In Section 18.11(a), the 'Company may reject the bid of any employee who does not possess the knowledge, skill, efficiency, adaptability and physical ability required for the job on which the bid is made'. Under Section 18.11(b), the Labor Agreement recognizes that the 'Company may give tests to assist in determining an employee's qualifications...An employee's failure to pass such tests in accordance with a Company and Union approved program shall result in the rejection of his bid without further consideration. "

"In Letter Agreement 85-142-PGE dated April 22, 1986, the Parties agreed that employees seeking to bid or transfer to the clerical line of progression would be required to take and pass the CTB (Clerical Test Battery) with a score of 180 points or above. This Letter Agreement constitutes a 'Company and Union -approved program' pursuant to Subsection 18.11(b) of the Clerical Agreement. Accordingly, an employee's failure to meet that standard 'shall result in the rejection of his bid without further consideration,' as provided in Section 18.11(b)."

From time to time, Company has changed its pre-employment tests, and then has sought agreement with the Union to utilize the same tests for bidding or transfer. In this case, the employee would have been accommodated in an above-entry clerical position if she'd met the pre-requisite test requirement. To allow her to continue in the position without meeting those requirements would have treated her better than others holding or attempting to enter the Operating Clerk classification.

Decision

The PRC agrees that the grievant was a casual employee and terminated for unsuitability and as such, this issue is not a proper subject for the grievance procedure. This case is closed without adjustment.


Margaret A. Short, Chairman
Review Committee

4/26/07

Date


Bob Choate, Secretary
Review Committee

4/26/07

Date

PACIFIC GAS AND ELECTRIC COMPANY

PGE + 245 MARKET STREET • SAN FRANCISCO, CALIFORNIA 94106 • (415) 781-4211 • TWX 910-372-6587

April 22, 1986

Get 87-34

Local Union No. 1245
 International Brotherhood of
 Electrical Workers, AFL-CIO
 P. O. Box 4790
 Walnut Creek, Ca. 94596

Attention: Mr. Jack McNally, Business Manager

Gentlemen:

This letter cancels and supersedes our previous letter to you, dated February 28, 1986, for the purpose of including additional attachments, identified as Exhibits I through V.

Company has recently implemented new Clerical and Meter Reader Pre-employment Aptitude Test Batteries developed by the Edison Electric Institute. The Battery for clerical applicants consists of the following four tests:

1. EEI 1982 Arithmetic
2. EEI 1982 Using Tables
3. EEI 1981 Language Skills
4. EEI 1981 Classifying

The Meter Reader Test Battery consists of the following two tests:

1. EEI 1982 Using Tables
2. EEI 1981 Coding

Pursuant to Subsection 18.11(b) of the Clerical Agreement, Company proposes to require that all employees, seeking to bid or transfer to the clerical line of progression, take and pass the respective pre-employment Aptitude Test Battery before being awarded a position in the clerical line of progression.

The tests will be scored in accordance with procedures described in the attached EEI Clerical and Meter Reading Testing Program Administration Manual (September, 1985). The cut-off scores for the tests are as follows:

Clerical	-	180 points in aggregate
Meter Reader-		130 points in aggregate

p. 31

April 22, 1986

Previous satisfactory performance in a clerical position, other than Data Entry Operator, Reprographics Operator, or Meter Reader will satisfy the requirement for passing the Clerical Test Battery entry examination. Previous satisfactory performance in a Meter Reader classification will satisfy the Meter Reader Battery entry examination.

An employee will be entitled to a total of two opportunities to pass the required test battery. Pre-employment testing will be counted as one opportunity.

Company further proposes to amend pages 28, 29, 30, 33, and 39 of Exhibit A as shown on the attached samples.

If you are in accord with the foregoing and agree thereto, please so indicate in the space provided below and return one executed copy of this letter to the Company.

Yours very truly,

PACIFIC GAS AND ELECTRIC COMPANY

By *M. B. Bright*
Manager of Industrial Relations

The Union is in accord with the foregoing and it agrees thereto as of the date hereof.

LOCAL UNION NO. 1245, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, AFL-CIO

July 1, 1986

By *Jack Williams*
Business Manager

OTHER INFORMATION					
0	0	0	0	0	0
1	1	1	1	1	1
2	2	2	2	2	2
3	3	3	3	3	3
4	4	4	4	4	4
5	5	5	5	5	5
6	6	6	6	6	6
7	7	7	7	7	7
8	8	8	8	8	8
9	9	9	9	9	9

EXAMINEE NUMBER											
0	0	0	0	0	0	0	0	0	0	0	0
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9

Form A

LANGUAGE SKILLS

Directions

Look at the sample sentence below. Part of the sentence is underlined. The underlined section may contain errors in spelling, punctuation, capitalization, grammar, or usage. Following the sentence are three changes to replace the underlined section. Select the best answer and darken the circle in front of it. If the underlined section contains no error, darken the circle in front of *NO CHANGE*. The sample has been done for you.

S1. The staff meeting will be held on Tuesday.

- Teusday.
- Tuesday.
- Tuesdey.
- NO CHANGE

In the sample, the circle in front of *Tuesday* has been darkened.

Are there any questions?

When the signal is given, turn the page and answer the questions in the booklet. You will have *5 minutes* for this test. Work as quickly and as accurately as possible. Do not turn the page until you are told to do so.



EDISON ELECTRIC INSTITUTE The association of electric companies.
 © 1981, Psychological Services, Inc. All rights reserved. Reprinted by permission of Psychological Services, Inc., Los Angeles, California.



MAKE NO MARKS IN THIS AREA

39180

EXHIBIT I

This is a test of your ability to do arithmetic problems involving the addition, subtraction, multiplication, and division of whole numbers.

Look at the examples below. Each example is followed by four possible answers, plus NONE. You are to do each problem and then blacken the circle below the correct answer. If the correct answer is not given, mark NONE. The examples have been correctly answered.

- EXAMPLES**
1. $2 + 3 =$ 4 5 6 7 NONE
2. $4 - 1 =$ 1 2 3 4 NONE
3. $19 \times 2 =$ 21 17 37 43 NONE
4. $30 \div 2 =$ 15 16 12 10 NONE

You may use the separate scratch paper to do your calculations.

You will have 5 minutes to do as many problems as you can. If you finish early, check your work.

Are there any questions?

When the signal is given, work as quickly as you can without making mistakes. Do not spend too much time on any one problem. Make no marks on the test except your answers; use the scratch paper for calculations. Remember, mark NONE if the correct answer is not given.

DO NOT BEGIN UNTIL YOU ARE TOLD TO DO SO.

NOTE: Your responses will be read by an optical mark reader. It is important that you follow a few simple rules.

- Use only a black lead pencil (No. 2¹/₂ or softer).
- Make heavy black marks that completely fill the circle.
- Erase cleanly any answer you wish to change.
- Make no stray markings of any kind.

EXAMPLE: Will incomplete or sloppily-made marks be properly read?

Yes No

OTHER INFORMATION					
0	0	0	0	0	0
1	1	1	1	1	1
2	2	2	2	2	2
3	3	3	3	3	3
4	4	4	4	4	4
5	5	5	5	5	5
6	6	6	6	6	6
7	7	7	7	7	7
8	8	8	8	8	8
9	9	9	9	9	9

EXAMINEE NUMBER					
0	0	0	0	0	0
1	1	1	1	1	1
2	2	2	2	2	2
3	3	3	3	3	3
4	4	4	4	4	4
5	5	5	5	5	5
6	6	6	6	6	6
7	7	7	7	7	7
8	8	8	8	8	8
9	9	9	9	9	9

TYPING											
PROD				REV				TABLES			
W		E		W		E		W		E	
0	0	0	0	0	0	0	0	0	0	0	0
1	1	1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9	9	9

AA EDISON ELECTRIC INSTITUTE
 The association of electric companies

Copyright © Edison Electric Institute, 1982



CODING

Form A

OTHER INFORMATION					
0	0	0	0	0	0
1	1	1	1	1	1
2	2	2	2	2	2
3	3	3	3	3	3
4	4	4	4	4	4
5	5	5	5	5	5
6	6	6	6	6	6
7	7	7	7	7	7
8	8	8	8	8	8
9	9	9	9	9	9

EXAMINEE NUMBER									
0	0	0	0	0	0	0	0	0	0
1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9

Directions

Look at the sample table of codes. The sample table lists codes for Department, Department Size, and Travel Budget. Below the table are two sample problems. In the problems, darken the circles below the codes that correspond to the information found in the table. The first problem has been done for you. Work the second problem by yourself.

Department	Department Size	Travel Budget
31 Marketing	1 1-9 employees	A \$500-999
25 Operations	2 10-19 employees	B \$1,000-2,499
42 Accounting	3 20-39 employees	C \$2,500-5,999
11 Research & Development	4 40-59 employees	D \$6,000-7,999
28 Personnel	5 60 or more employees	E \$8,000-10,000

S1. Accounting Dept., staff of 10, \$3,000 Travel Budget.

Department					Department Size					Travel Budget				
11	25	28	31	42	1	2	3	4	5	A	B	C	D	E
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

S2. Marketing Dept., staff of 45, \$9,500 Travel Budget.

Department					Department Size					Travel Budget				
11	25	28	31	42	1	2	3	4	5	A	B	C	D	E
<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

In the second problem 31, 4, and E should have been darkened. Be sure that you darken a code under each section of every problem.

Are there any questions?

When the signal is given, turn the page and answer the questions in the booklet. You will have 5 minutes for this test. Work as quickly and as accurately as possible. Do not turn the page until you are told to do so.



EDISON ELECTRIC INSTITUTE The association of electric companies
 © 1981, Psychological Services, Inc. All rights reserved. Reprinted by permission of Psychological Services, Inc., Los Angeles, California.



MAKE NO MARKS IN THIS AREA

29085

CLASSIFYING

Form A

OTHER INFORMATION									
0	0	0	0	0	0	0	0	0	0
1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9

EXAMINEE NUMBER									
0	0	0	0	0	0	0	0	0	0
1	1	1	1	1	1	1	1	1	1
2	2	2	2	2	2	2	2	2	2
3	3	3	3	3	3	3	3	3	3
4	4	4	4	4	4	4	4	4	4
5	5	5	5	5	5	5	5	5	5
6	6	6	6	6	6	6	6	6	6
7	7	7	7	7	7	7	7	7	7
8	8	8	8	8	8	8	8	8	8
9	9	9	9	9	9	9	9	9	9

Directions

Look at the sample chart of codes below. Following the chart are sample problems. For each problem, select the best code, and darken the circle under the code. The first problem has been done for you. Do the second problem by yourself.

Account	Code No.
Supplies	23
Travel Expenses	67
Advertising Expenses	39
Payroll	01
Repairs and Maintenance	37

	01	23	37	39	67
S1. Airline ticket	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
S2. Pencils	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

In the second problem, you should have darkened the circle under Code 23 because pencils are supplies.

Are there any questions?

When the signal is given, turn the page and answer the questions in the booklet. You will have 5 minutes for this test. Work as quickly and as accurately as possible. Do not turn the page until you are told to do so.



EDISON ELECTRIC

INSTITUTE The association of electric companies.

© 1981, Psychological Services, Inc. All rights reserved. Reprinted by permission of Psychological Services, Inc., Los Angeles, California.



MAKE NO MARKS IN THIS AREA.

41776

