

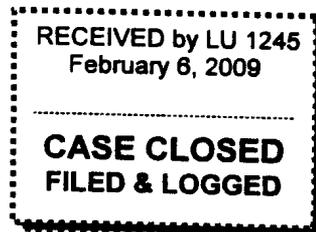


REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY
LABOR RELATIONS DEPARTMENT
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INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
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VACAVILLE, CALIFORNIA 94696
(707) 452-2700



JOHN MOFFAT, CHAIRMAN

BOB CHOATE, SECRETARY

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

Pre-Review Committee No. 18091
Energy Delivery – Grid Maintenance –S. F.

Michelle Roberts
Company Member
Local investigating Committee

Landis Marttila
Union Member
Local Investigating Committee

Grievance Issue:

The Company terminated an Electrician with five years of Company service, for an altercation that started on Company property and continued at a nearby establishment where the Grievant assaulted his co-worker.

Facts of the Case:

The Grievant was hired in February of 2002 into the General Construction Station Department and was awarded a bid to SF Division Substation Electrician in September of 2007.

On January 17, 2008, the Grievant was notified that his employment with Company was being terminated effective January 18, 2008.

The Grievant got into a fist fight after work with another Substation Electrician at the 7 Mile House Bar adjacent to the Company's Martin headquarters. Immediately prior to the fight, the two employees engaged in a verbal exchange in the Company parking lot.

The Grievant stated that he and co-worker had frequented the same card clubs in the East Bay. Grievant had made a \$1000 loan to co-worker after a particularly good day at the card club in October 2007. The Grievant did not know why the co-worker needed a loan but assumed he would be paid back in a couple of weeks since the whole department was working overtime. The grievant stated that he would not have loaned the money if he, himself was short of cash. The Grievant assumed he would get paid back since they worked together and saw each other on most workdays. He stated that co-worker had paid him back \$300 of the original \$1,000 loan.

The co-worker testified that he did not borrow money directly from the Grievant. He denied that he owed the Grievant any money, but did he say that he had placed a bet with the grievant's bookie, which he lost. The grievant informed the co-worker that he had paid his debt to the bookie.

The co-worker testified that the grievant had threatened him a couple of times and used profanity towards him prior to the incident on January, 2, 2008, specifically, he recalled the grievant threatening to "kick his ass".

Another Electrician, who was interviewed by Corporate Security, stated in his interview that the Grievant told him about threats the grievant made to the co-worker, "How would you like my fist in your jaw?" The Grievant told the other electrician that he would "kick his (co-worker) ass if I don't get my money" and that he had a friend willing to "shoot up his house if wanted him to".

The grievant was waiting in the parking lot after work for the co-worker and approached him in an aggressive manner. The co-worker is 5 feet 6 inches and 160 pounds and the grievant is 5 feet 10 inches and 220 pounds.

A witness stated to Corporate Security that she was in the parking lot of the bar and saw co-worker pull up and then saw the grievant park next to him. She was walking toward co-worker to greet him when the grievant hit the co-worker on the side of the head. The grievant proceeded to hit co-worker 5 or 6 times in the face and body. When the co-worker fell to the ground, the grievant kicked him 6 to 8 times. The grievant got into his truck and fled the scene.

The Brisbane Police report contains a statement made by the cook at the 7 Mile House. The cook stated that he saw both vehicles drive down Bayshore Blvd and pull in front of 7 Mile House. He stated that the co-worker exited his vehicle and confronted the grievant. The grievant then punched co-worker knocking him down. The cook stated that he did not hear anything the two parties said but that they continued to fight. He did not witness the grievant kick the co-worker.

Grievant stated that he left the 7 Mile House and drove home to San Lorenzo. Later that evening Brisbane and Alameda County Sheriffs contacted him at his house and placed him under arrest for battery.

After the fight, another co-worker went into the 7 Mile House. He stated that the bar was very full and everyone was talking about the altercation. The bar patrons were members of the general public, as well as PG&E employees. They were aware that the fight was between PG&E employees. He stated that he believes this has a negative impact on the reputation of the Company.

The grievant confirmed that he has seen the Employee Code of Conduct, USP 1, and that he has been in yearly meetings addressing it. He is familiar with the policy on intimidating and threatening co-workers and is aware that it is unacceptable according to Company policy.

The injuries sustained by co worker were a fractured knee, multiple bruises and contusions on his face and body, shoulder and chest injuries, and general soreness. The co-worker was in and out of consciousness immediately following the altercation.

Discussion

Union members opined that the grievant had been provoked by his co-worker into pulling into the bar after him and then provoking him into a fight when the co-worker jumped out of his car and approached the Grievant in an aggressive manner. Union members further opined that the one

witness who has the least investment into this situation, the cook, gave a statement of what happened that supports this provocation. The other witness to the altercation was a friend of the co-worker and is not as credible as the cook.

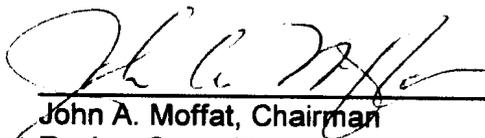
Union members stated that the altercation between the grievant and his coworker occurred off Company property and during non-work hours. The basis for the dispute grew out of gambling activities that did not occur on Company time or property and have no connection to the employer's legitimate business interests or the work assignments of the Company's employees.

Company members stated that in the four short months that grievant had been in this workgroup, he had terrorized his co-workers. The LIC report includes statements from six of his co-workers who have witnessed threatening, intimidating and/or bullying behavior by the grievant during work. If co-workers were not afraid to work with the grievant prior to the assault, they are now, as he has carried out one of his threats. Even the one witness who considered the grievant a friend expressed a fear of working with grievant because he has a "lack of impulse control and an abundance of anger". Another co-worker stated that the grievant was a bully who was always picking on people that are smaller than he is. Grievant had told this co-worker that if he had a problem with someone he would "just take care of him after work". Company has an absolute responsibility to maintain a safe workplace that is free from intimidation, threats and bullying.

The arbitrator in decision no. 46 established criteria for when off-duty conduct justifies discipline including whenever such conduct leads to reluctance on the part of other employees to work with the grievant. Clearly this is true in the instant case. In addition, numerous discussions about the co-worker owing the grievant money, and the grievants' anger toward his coworker, occurred with people while at work, as did the initial confrontation where grievant was waiting for the co-worker in the parking lot shortly after quitting time. That altercation led to the fight at the bar down the street.

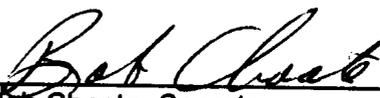
Decision

The parties agree that there was just cause to discharge the grievant and this case is closed without adjustment.



John A. Moffat, Chairman
Review Committee
2/6/09

Date



Bob Choate, Secretary
Review Committee
2/6/09

Date