



REVIEW COMMITTEE



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INTERNATIONAL BROTHERHOOD OF
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LOCAL UNION 1245, I.B.E.W.
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JOHN MOFFAT, CHAIRMAN

DECISION
LETTER DECISION
PRE-REVIEW REFERRAL

RECEIVED by LU 1245
August 13, 2010

**CASE CLOSED
FILED & LOGGED**

BOB CHOATE, SECRETARY

Pre-Review Committee Nos. 19150 & 19165 Customer Care – Meter Reading - Madera

Margaret Franklin
Company Member
Local investigating Committee

Mike Grill
Union Member
Local Investigating Committee

Grievance Issue:

The two cases a crisis suspension and discharge are for a conduct violation.

Facts of the Case:

The grievant is a Senior Meter Reader with 36 years of service with no active discipline was suspended on April 23, 2009 through his termination date April 28, 2009.

The Company received a complaint regarding the grievant's behavior. The complaint alleged the grievant made racially derogatory, sexually harassing and threatening comments in the workplace.

An investigation was conducted by the Company in early April of 2009. The investigation concluded that the grievant violated Company policy: that the grievant demonstrated inappropriate, unprofessional and harassing behavior.

LIC interviewed the witness that were involved in the EEO investigation and they confirmed their testimony that the grievant's behavior included derogatory reference about women and a persons race,

The witnesses also stated that he, the grievant, used inappropriate language more than others and treated Hiring Hall employees poorly by berating them and continually letting them know they could be let go at anytime. The Hiring Hall employees were reluctant to come forward for fear of losing their job.

The grievant admitted making some inappropriate comments where he acted with poor judgement. In some of the other instances he admitted that he did not communicate very well. He was only trying to help the Meter Readers. He thought it was okay to print out inappropriate jokes because he thought the rule was about pornographic material.

One female employee who worked with the grievant for six years did hear comments about her and other women but she was not offended by the "colorful conversations". She also stated that the

grievant could get on the nerves of the Meter Readers and that she would be the go between. She also stated that she did not think the work place was a hostile environment.

The Company stated that he has had sexual harassment training and had an incident 10 years ago where he was on notice that his behavior was not acceptable. He has also received his annual training/notice on this subject.

Discussion

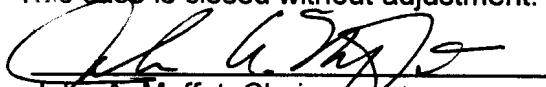
The Union argued that there was no reason to suspend the grievant and that the termination was too severe. The grievant did admit that he commented and made an occasional joke but it did not rise to being multiple inappropriate comments.

The Company argued that under the Positive Discipline guidelines the suspension and termination was appropriate. The comments and behavior were inappropriate and warranted severe discipline. Witness [redacted] substantiated the findings in the investigatory report. The grievant used and abused his position as a Senior Meter Reader to intimidate others with his comments.

Decision

Based on the facts in this case the parties are in agreement the actions taken were for just cause.

This case is closed without adjustment.



John A. Moffat, Chairman
Review Committee

8/11/2010

Date



Bob Choate, Secretary
Review Committee

8/11/2010

Date