

REVIEW COMMITTEE DECISION

Review Committee File No. 927
San Jose Division L.I.C. Grievance No. 8-69-9

Statement of Facts

The grievance concerns the demotion of a Gas Serviceman to Helper. The demotion followed an investigation made by the District supervision of a complaint of a customer concerning the grievant's conduct while performing service work at her home. The customer, who was also later interviewed by the Company and Union members of the Local Investigating Committee, alleged that the grievant had on two occasions used words in her presence that were profane and improper in a conversation with a woman. The grievant was confronted with the customer's allegations and admitted to having used one phrase during his conversation with her in the afternoon. He was unsure whether he had used other language alleged by the customer.

The District supervision at the same time reviewed other discussions held with the grievant concerning previous improper statements or misconduct that had also resulted in complaints from Company's customers. As a result, the supervisor suspended the grievant pending further investigation, which later resulted in his demotion.

The grievance could not be settled at the Division level and was referred to Review Committee. The members of the Review Committee held a hearing at the grievant's headquarters on November 13, 1969. At that time testimony was taken from the grievant and the supervisors who had participated in the investigation of the grievance and the decision that grievant should be demoted to Helper.

The correction sought by Union is to reinstate the grievant to Serviceman with backpay from the date of his suspension.

Discussion

Inasmuch as the grievant, both at the preliminary investigation and later at the Review Committee hearing, freely acknowledged the use of the offensive language when discussing the incident of a child kidnapping, there is little need to extend this discussion by restating other facts not pertinent to Company's decision. The particular phrase attributed to the Serviceman is without question one that would be offensive to a woman customer, nor are there any mitigating factors other than the Serviceman's testimony of his feeling of emotion at the time to mitigate the seriousness of this misconduct.

On the other hand, the testimony taken from the grievant and his supervisors at the Review Committee hearing sheds further light on the grievant's potential to return to service work at some time in the future. His expression, choice of words and demeanor, even while admitting to the use of offensive language, lead us to believe that he is capable of refraining from similar misconduct if he applies himself. It is also noteworthy to add, in support of this conclusion, that the grievant's personnel file contains several letters of commendation from Company's customers for work that he had performed for them. In the light of all this, the Review Committee has reached the following:

Decision

1. The demotion of grievant from Serviceman to Helper, effective September 25, 1969, is sustained.
2. The District supervision will provide for systematic reviews of the grievant's job performance and conduct for a period of six months, commencing December 10, 1969 and ending June 9, 1970.
3. At the conclusion of the six months' period, the District supervision will make a determination as to whether the grievant's conduct evidences that he can conduct himself in an appropriate and proper manner and if he can, he shall be reinstated as a Gas Serviceman on that date.
4. The grievant's reinstatement to Gas Serviceman will be on the condition that if he engages in any similar misconduct after that, he will be subject to demotion or discharge, whichever remedy is appropriate, without recourse to the grievance procedure, except to determine whether the evidence supports the conclusion of his involvement in the misconduct or, if the action taken is other than demotion, whether the action taken was appropriate under those facts.

FOR UNION:

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By

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Date

12/17/69

FOR COMPANY:

T. J. Bianucci
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L. V. Brown

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Date
