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DIVISION OR DEPARTMENT INDUSTRIAL RELATIONS
 FILE No. 741.5
 RE LETTER OF
 SUBJECT Review Committee File No. 1391-75-20
 Sacramento Division Grievance No. LIC 6-75-9
 Discharge of Apprentice Lineman

RECEIVED

NOV 12 1975
LOCAL 1245. I. B. E. W

November 10, 1975

MR. WAYNE T. PETERSON, Company Member
 Sacramento Division
 Local Investigating Committee

MR. ALBERT E. SANDOVAL, Union Member
 Sacramento Division
 Local Investigating Committee

The above-subject grievance has been discussed by the Review Committee and is being returned to the Local Investigating Committee for settlement in accordance with the following:

The record submitted by the Division states that the grievant was discharged for allegedly willfully omitting information on his employment application relative to a back "strain" suffered sometime prior to his employment. The Local Investigating Committee agreed that the grievant did omit that information on his employment application. However, the Committee is not in agreement that it was willful and that discharge for this reason was therefore appropriate.

The case was referred to Fact Finding for further investigation and then on to Review Committee. After a further more thorough investigation, the Review Committee is of the opinion that while the grievant did omit requested information concerning a previous back injury, the omissions were not deliberate or willful, although at that time they might have been material to his being hired if divulged. Other than the grievant's omission on his employment application, his work record was satisfactory.

The record clearly indicates that the grievant first became aware on or about July 1974 (about 14 months after he was hired) that he had a congenital back problem, and that he should not continue to work in an occupation that required heavy physical work, particularly lifting or climbing. The record supports the further conclusions that the grievant thereafter promptly sought independent medical evaluation of his condition after which he informed his supervisor that he was advised to seek less strenuous physical work and to this end had applied for and qualified for clerical employment. Neither resulted in any action. However, it is further established that when later faced with the prospects of a layoff in General Construction, and not being bothered at the time with his back problem, he did not call the former advice to his new supervisor's attention before or after transferring to Sacramento.

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While this case presents a unique factual situation, the Review Committee is foreclosed from basing its decision on these peripheral issues. The simple, although unfortunate, fact is that the grievant cannot perform the work of an Apprentice Lineman or a lower classification in that line of progression, and for that reason his termination of employment must stand although not for the reasons stated. However, notwithstanding the foregoing, the Committee strongly recommends that, if possible, the grievant be placed in a vacant beginning clerical classification, as he previously requested after being apprised of his back problem, and his seniority bridged by an agreement as called for in Title 18 of the Clerical Agreement.

This case is considered closed and should be so noted by the Local Investigating Committee.



L. V. BROWN, Chairman
Review Committee

DJBergman:rto

cc: SEHowatt
IWBonbright
JAFairchild
PMatthew
TVA/LCBeanland
Personnel Managers
LNFoss, IBEW