

# REVIEW COMMITTEE

## PG and E

## IBEW

PACIFIC GAS AND ELECTRIC COMPANY  
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**CASE CLOSED**  
**LOGGED AND FILED**

AUG 6 1984

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, AFL-CIO  
LOCAL UNION 1245, I.B.E.W.  
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R.W. STALCUP, SECRETARY

D.J. BERGMAN, CHAIRMAN

**RECEIVED AUG 2 1984**  
**REVIEW COMMITTEE DECISION**

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

San Francisco Division Grievance No. 2-912-84-12  
Review Committee File No. 1587-84-22

### Subject of the Grievance

This case concerns the termination of a Fieldman for failure to provide the Company with an extensive medical clearance upon his return to work following a medical leave of absence.

### Facts of the Case

The grievant, employed on April 20, 1971, requested and was granted a medical leave of absence effective June 6, 1983.

The grievant requested and was granted four additional extensions of the leave through November 20, 1983.

On November 21, 1983, the grievant returned to work with a release from Kaiser Hospital in the form of a Kaiser slip. The slip indicated that the grievant was seen in the office on October 13, 1983 and may resume work on November 21, 1983. The stated diagnosis was "mild muscle spasms in low lumbar area." The grievant was told by his Foreman that this slip was insufficient to return to a physical job after a six-month medical leave of absence and that the employee would have to get immediate clearance before he is returned to work. The grievant told the Foreman that it was going to be difficult to get anything out of Kaiser but that he would try. On December 1, 1983 and December 12, 1983, the grievant came into the office and spoke to the District Gas Superintendent and informed him that he was having trouble getting the medical clearance from Kaiser. On December 12, 1983, the Company gave the grievant a job description for the Fieldman classification and copy of his original leave of absence to assist him in gaining the necessary medical clearance from Kaiser. This clearance was to be in the form of a signed statement from the grievant's physician stating that his condition has been corrected and that he would be able to perform all physical requirements of his Fieldman classification. The employee also received a letter on December 12, 1983 confirming the above requirements. The letter also stated that an unauthorized absence of ten days may cause termination of employment.

On January 6, 1984, the grievant was terminated because of his failure to report for work or to comply with the Company's request to provide medical proof of the ability to perform the job duties of a Fieldman after a six-month medical leave of absence. On or after January 10, 1984, the Company received a letter from the grievant's physician. The letter was dated January 3, 1984 and stated that the employee developed severe low back pain on June 1, 1983 and had been receiving physical therapy and analgesics. The

letter also indicated that the employee had been evaluated on October 13, 1983 at which time he had only mild muscle spasms and was, therefore, released to return to work November 21, 1983.

### Discussion

The Union argued that Section 101.3 of the Physical Agreement states "the conditions under which an employee shall be restored to employment on the termination of his leave of absence shall be clearly stated on the form which application for the leave is made" and that neither the original leave form nor any of the leave extensions had the requirement that the employee must submit medical clearance from his personal physician upon his return to work. The Union further opined that when the employee returned to work on November 21, 1983 with the Kaiser slip, he was doing so on his own without any Company requirement or knowledge that the Company would require any medical documentation. The Union further argued that it is the Company's obligation to place on the leave form any conditions of the leave. If the Company wanted the grievant to provide extensive medical clearance, then it should have listed it on the leave form.

The Committee noted that each extension was granted retroactively and that there were delays between the expiration of each leave and the authorizing of each extension.

Further discussion centered around Item 6 of the leave of absence application where it is printed on the form that the Company also reserves the right to have the employee examined by a Company panel physician to clarify the nature and extent of the employee's medical condition. The Union opined that the Company had the right pursuant to Item 6 to send the grievant to a Company panel physician for an examination and evaluation upon his return to work before returning him to full duties; however, the Company did not exercise that option. The Company argued that although no statement was made on the leave application form of the requirement for the employee to provide medical clearance before being allowed to return to work, that it only made sense to impose that requirement on an employee who has been off work for a period of approximately six months with a low back injury, who was at this point, requesting to return to full duties in a physical classification. The Company believed that requiring the employee to provide this more substantial information was not unreasonable. In fact, the grievant was given from November 21, 1983 until January 6, 1984 to provide the information. Then finally on January 6, 1984, the Company determined that the grievant was either unwilling or unable to provide the medical clearance; and he was, therefore, discharged.

### Decision

The Review Committee, after reviewing the facts of the case, agreed that the employee did live up to his obligations on the leave of absence application. In fact, when the grievant provided the Kaiser slip releasing him to work on November 21, 1983, he was going beyond any requirement of his leave. The Committee discussed the fact that the Company failed to exercise its right to have the employee examined by a Company panel physician upon his return; and that it would have been appropriate to do so as opposed to requiring the employee to provide his own medical clearance. The Committee also agreed that

stating on a leave of absence application a specific requirement for the employee to provide medical clarification and clearance upon return to work would be a valid requirement. The Committee agreed that this employee is to be examined by a Company panel doctor and if the panel doctor concurs with the employee's physician, the grievant will be reinstated retroactive to November 21, 1983. His reinstatement will be with backpay less any outside earnings or unemployment compensation. The employee will be required to provide the Company with his 1983 and 1984 year-to-date earnings information. If the panel physician does not concur with the personal doctor, then the parties shall mutually select an agreed-to medical examiner. This case is considered closed on the basis of the above, and should be so noted by the Local Investigating Committee.

## FOR COMPANY:

N. L. Bryan  
F. C. Buchholz  
R. C. Taylor  
L. V. Brown

By

Date

L. V. Brown  
7/27/84

## FOR UNION:

P. Nickeson  
F. Pedersen  
A. Watson  
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By

Date

Roger Stalcup  
7/27/84