

REVIEW COMMITTEE**PG and E**

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IBEW 

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
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WALNUT CREEK, CALIFORNIA 94596
(415) 933-6060
R.W. STALCUP, SECRETARY

CASE CLOSED
LOGGED AND FILED
JUL 5 1985

RECEIVED JUL 1 1985

D.J. BERGMAN, CHAIRMAN

REVIEW COMMITTEE DECISION

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL
- General Construction Grievance No. 3-1333-84-65
Review Committee File No. 1611-85-4

Subject of the Grievance

This case concerns the discharge of a General Construction Line Truck Driver.

Facts of the Case

On February 12, 1981, the grievant suffered a myocardial infarction which was determined to be industrially related. As a result, he was placed on the Compensation Payroll. He recovered, was released for full duty, and returned to work as a Line Truck Driver on June 8, 1982. In July, 1982, the grievant, while on the active payroll, submitted an application for Group Life Insurance. Because this application was not submitted when the grievant was first eligible to join or during an open period, it was necessary for him to complete a Medical Statement. Based on the grievant's medical history, his application for Group Life coverage was declined by Equitable Life Assurance Society of the United States, the carrier of the Company's Group Life Insurance Plan. In early 1983, he again began to suffer from chest pains and was returned to the Compensation Payroll on January 19, 1983. On February 9, 1983, a letter announcing an open enrollment period for Group Life Insurance was sent to the homes of all eligible employees who were non-members, employees with partial or frozen coverage. The open period meant that employees could join the Group Life Plan without submitting a Medical Statement or having a physical examination. The February 9, 1983, letter contained the following sentence:

"For employees not presently at work, their insurance coverage will not be effective until they return to work."

The grievant denied receiving this letter. He stated that shortly after returning to the Compensation Payroll in January 1983, he visited the Line Department yard in Oroville and was told that an open sign-up period for Group Life Insurance was in effect. The grievant completed an application on February 22, 1983.

Shortly, thereafter, the grievant received a Certification of Group Insurance effective February 22, 1983. The cover page to the policy states:

"The Equitable Life Assurance Society of the United States hereby certifies that, subject to the terms and conditions of Group Policy No. 9303, the employee named herein, an employee of PGandE...is insured for the benefits described in this certificate..."

By April, 1983, the grievant's condition was determined to be stationary and rateable, and he was precluded from returning to strenuous physical labor which included his Line Truck Driver classification. At this point, the Company notified the employee by letter dated April 19, 1983, that he would be considered for positions, which fall within his work limitations, and requested that he take the name comparison portion of the Clerical Aptitude Test. On May 5, 1983, he took this test and did not attain a qualifying score. Subsequently, on September 15, 1983, he did pass. Attempts were made to schedule the grievant for a typing test (15 word per minute is required for General Construction Field Clerks), however, he declined.

The Company conducted several searches in General Construction and in the Divisions, before and after the grievant's discharge, to find a position commensurate with his reduced work capabilities. No such position was found. This was the subject of Pre-Review Committee Decision No. 927.

The grievant was referred to rehabilitation outside the Company, and successfully completed a program which lead to employment in an auto parts store.

On August 13, 1984, the grievant's employment was terminated because he could not be returned to the Line Truck Driver classification; internal placement could not be effected; and as a non-member of Group Life, there was no entitlement to Long Term Disability.

Discussion

The Committee agreed that Section 2.25 A.1. of the Benefit Agreement between IBEW, Local 1245, and PGandE, allows the parties to resolve disputes concerning any question of service, status, or membership under the Group Life Plan, pursuant to the provisions of Title 102 of the Agreement (Grievance Procedure).

The Union argued that the grievant, in fact, was a member of the Group Life Insurance Plan inasmuch as he had a Certificate of Coverage with an effective date of February 22, 1983. The Union further pointed out that the Summary of Employee Benefits Handbook; the Benefit Agreement between IBEW, Local 1245 and PGandE; and the Certificate of Insurance Coverage are all devoid of a statement that an employee's insurance coverage would not be effected until the employee returned to the active payroll.

The Company stated that the employee has resided at the same address for quite some time and that it is a reasonable assumption that he received the February 9, 1983, letter announcing the open period containing the conditional statement; that notwithstanding the arguments raised by the Union, historically life insurance coverage has not been effected unless the employee was on the active payroll, and that this is a provision contained in the agreement between PGandE and Equitable.

The Review Committee noted that the Certificate of Insurance Coverage is applicable to an employee "subject to the terms and conditions of Group Policy No. 9303"; and that Section 2.03 of the Benefit Agreement states: "The present carrier is the Equitable Life Assurance Society of the United States, and the terms of the policy are hereby incorporated by reference." Page 2, Item C of Policy 9303, between PGandE and Equitable reads:

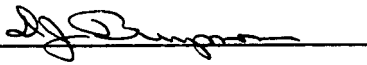
"Exception: Any employee who is not actively at work at the date he would otherwise become eligible for insurance hereunder shall not be eligible until he returns to active work. This limitation shall not apply on January 1, 1969 to any employee insured on December 31, 1968 under the replaced policy."

Decision

The Review Committee is in agreement that all contractually and legally required entitlements have been afforded the grievant, and, therefore, the discharge is not in violation of the Agreement. This case is, therefore, closed without adjustment.

FOR COMPANY:

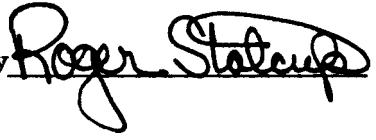
- M. E. Bennett
- F. C. Buchholz
- R. C. Taylor
- D. J. Bergman

By 

Date 6-26-85

FOR UNION:

- P. Nickeson
- F. Pedersen
- A. Watson
- R. W. Stalcup

By 

Date 6/26/85