

REVIEW COMMITTEE**PG and E**

PACIFIC GAS AND ELECTRIC COMPANY
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D.J. BERGMAN, CHAIRMAN

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

CASE CLOSED
LOGGED AND FILED
RECEIVED APR 30 1986

REVIEW COMMITTEE DECISION**IBEW** 

INTERNATIONAL BROTHERHOOD OF
 ELECTRICAL WORKERS, AFL-CIO
 LOCAL UNION 1245, I.B.E.W.
 P.O. BOX 4790
 WALNUT CREEK, CALIFORNIA 94596
 (415) 933-6060

R.W. STALCUP, SECRETARY

General Construction Grievance No. 3-1431-85-65
 Review Committee File No. 1630-86-1

Subject of the Grievance

This case concerns the discharge of a General Construction Truck Driver for vandalizing Company equipment.

Facts of the Case

Grievant was employed May 27, 1983 as a Helper in the Line Department and was discharged effective June 14, 1985.

On February 11, 1985 when the grievant and other members of the crew arrived at the job site, the area had been vandalized. Steel was scattered around and rigging equipment was missing. The Working Foreman C who was in charge told the crew to further vandalize the site because he was upset at the exempt Foreman for denying him time off a week earlier. When the grievant objected, the Working Foreman C told him his job and life would be rougher if he didn't follow orders.

The grievant proceeded to break the spark plugs on two winches and throw some steel around. There is an allegation that he was also responsible for putting dirt in the gas tanks of the winches.

There were four other crew members who did not participate in vandalizing the site. One crew member indicated he at first began picking up steel but was told to put it back by the Working Foreman C so that pictures could be taken.

The Working Foreman C told the exempt supervisor that the job site was vandalized by third parties prior to the crew's arrival. The grievant and one other crew member at different times following the incident informed exempt supervisors of what had really taken place. At some point, the Security Department was notified and interviewed the crew on June 6, 1985 and the exempt supervisor on June 13, 1985. The Working Foreman C was not interviewed because he was not at work on June 6, 1985 and was subsequently discharged on June 7, 1985 for continued unavailability.

Discussion

The grievant testified that he felt intimidated by the Working Foreman. The exempt supervisor acknowledged that the Working Foreman was a "bad apple," and he could see how the grievant could easily be intimidated.

Company responded that the other members of the crew were not intimidated to the point of carrying out the Working Foreman's orders and that if the employee had refused to carry out the order, discipline would not have resulted.

The Committee agreed that willful vandalism of Company property, even minor damage, cannot be condoned and appropriate disciplinary action up to and including discharge will be taken by the Company.

Decision

The Committee agreed based on the facts of this case, not the least of which is that the grievant came forward, admitted his involvement in the incident, and no disciplinary action was taken until approximately four months after the incident that the discharge should be mitigated.

The Committee agreed that the grievant is to be reinstated as a Truck Driver (or lower) in the Line Department without back pay. The period between discharge and reinstatement shall be considered a disciplinary layoff and shall be confirmed in a letter of reprimand to the grievant.

This case is closed.

FOR COMPANY:

Norman L. Bryan
Floyd C. Buchholz
Robert C. Taylor
David J. Bergman

By *David J. Bergman*

Date 4-22-86

FOR UNION:

Patrick S. Nickeson
Fred H. Pedersen
Arlis Watson
Roger W. Stalcup

By *Roger Stalcup*

Date 4/24/86