

108.2 -Termination of
18.5(c) a disabled empl
following
expiration of
LTD benefits.



REVIEW COMMITTEE

DEC 18 1990

CASE CLOSED

LOGGED AND FILED

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Skyline Division Grievance No. GG-SD-46-2-89-50-9
Review Committee File No. 1706-90-11

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

Subject of the Grievance

This case concerns the discharge of a Meter Reader from the Workers' Compensation Payroll at the conclusion of his entitlement to supplemental benefits.

Facts of the Case

The grievant was hired as a Meter Reader October 26, 1978. On July 17, 1983, he suffered an industrial injury when he stepped on a root and twisted his left ankle. His last day worked was August 31, 1983. He was terminated on May 6, 1989 when his Long Term Disability (LTD) entitlement ran out. While off, the grievant had six major surgeries. In an AME (Agreed Medical Examiner) report dated July 26, 1988, his condition was found to be permanent and stationary; he was permanently precluded from Meter Reader. In accordance with P-RC 471, the Company conducted a bona fide 60-day internal search for alternate placement, beginning on November 9, 1987. A second internal search for alternate placement was conducted, beginning on April 6, 1989. As no placement opportunity occurred following the November 9, 1987 search, the grievant opted for outside rehabilitation training. As the grievant had moved to Michigan during 1987, Company coordinated a rehabilitation plan for him there. However, the grievant did indicate he would return to PG&E if a job were found for him. The grievant later returned to California in January 1990, post termination.

Between July 26, 1988 and May 6, 1989, the Company filled the following temporary additional positions in San Francisco Division:

<u>Date</u>	<u>Classification</u>	<u>Comment</u>
8/18/88	Meter Reader	not physically qualified
3/15/89	Marketing Residential Analyst	exempt position
3/13/89	Groundman	not physically qualified
3/13/89	Utility Clerk - Operating	new hire; terminated 9/6/89
4/12/89	Utility Clerk-Typist, Operating	did not possess typing skill

Further, the Company filled the following regular positions by unrestricted appointment:

<u>Date</u>	<u>Classification</u>	<u>Comment</u>
12/1/88	Utility Clerk, Customer Svcs.	placement of T/A clerk
3/28/89	Service Rep., Customer Svcs.	no prebid on file plus successful bidder had more Service
4/10/89	Gas Mapper	placement of an industrially injured Gas Helper, same Dept.

The grievant had numerous transfers on file. However, all of the regular positions listed above that were filled after the grievant was found to be permanent and stationary were filled pursuant to Section 18.5(b) as unrestricted appointments. Therefore, the grievant was not bypassed.

During the period of temporary disability and during the period of rehabilitation training, the grievant received supplemental benefits (see Arb. 182). When his LTD entitlement, which runs concurrently with time spent on the Workers' Compensation Payroll in excess of six months ran out, the grievant was administratively discharged.

A letter dated March 7, 1990 from the grievant's attorney indicated that the grievant had accepted employment at a sheet metal company, and he was no longer eligible for vocational rehabilitation.

Discussion

During the Committee's discussion of the case, the Union opined:

- o pursuant to P-RC 471, that a disabled employee is entitled to preferential consideration in the filling of vacancies for which he was qualified;
- o that the grievant had Section 19.9 rights to Utility Clerk as that was a lower classification in his line of progression;
- o that the grievant had been disabled for a longer period of time, was found to be permanent and stationary on an earlier date, and had more seniority than the employee appointed to the Mapper vacancy; therefore, the grievant should have been appointed to it;

The Company argued that there is no contractual right to preferential consideration due to disability except as provided in Section 19.9, for employees on LTD.

The Company pointed to the Title 19 clarification, specifically, reverse normal lines of progression for Customer Services (Paragraph III H) to rebut the Union's Section 19.9 rights to Utility Clerk argument.

As to the Mapper vacancy, neither employee had a contractual right to the Mapper vacancy as it is in a different bargaining unit altogether (ESC), and all such appointments awarded to employees who are in non-ESC represented classifications are by unrestricted appointment.

Decision

The parties are in agreement that all contractual entitlements were afforded the grievant, that there is no contractual right to preferential consideration for placement in vacancies due to disability except in the limited situation described above; i.e., return from LTD to former classification or those lower in the reverse normal line of progression or such non-preferential consideration as the disabled employee may be entitled to pursuant to P-RC 471.

The discharge was proper. This case is closed without adjustment.

FOR COMPANY:

William J. Eddy
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By 

Date 12-11-90

FOR UNION:

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Date 12/7/90