



# REVIEW COMMITTEE

*212.1 & 212.3: Grievants improperly bypassed for call-out. Co. didn't call because they qualify for rest period and had not been off work for 8+ hours.*



## IBEW

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(415) 973-8510

**CASE CLOSED  
FILED & LOGGED**

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, AFL-CIO  
LOCAL UNION 1245, I.B.E.W  
P.O. BOX 4790  
WALNUT CREEK, CALIFORNIA 94596  
(510) 933-6060  
R.W. STALCUP, SECRETARY

MARGARET A. SHORT, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

**Review Committee Case No. 1800  
San Joaquin Division Case No. FRO-94-40  
FRO-94-41**

**Monica Oakes  
Company Member  
Local Investigating Committee**

**Chuck Davis  
Union Member  
Local Investigating Committee**

### Subject of the Grievances

This case concerns a Title 212 bypass of two Linemen in Fresno.

### Facts of the Cases

The grievants worked their regular schedule on a Monday ending at 3:30 p.m. At 6:16 p.m. the grievant in case 94-40 was called out due to a storm. The grievant in case 94-41 was called at 4:04 p.m. They worked until 11:00 a.m. on Tuesday when they were released on a rest period. The eight hour rest period ended at 7:00 p.m. on Tuesday. Their paid status ended at 3:30 p.m.

At 4:00 p.m. on Tuesday there was another call-out and the grievants were not called as the supervisor believed it was inappropriate to call them until the expiration of the rest period to allow adequate recuperation after working an extended period. The grievants had worked approximately 17 and 19 consecutive hours respectively. At the time of the call-out, the grievants had been off work for five hours.

The LIC report gives no information relative to the employees' physical condition prior to being released from the overtime assignment or at the time of the subsequent call-out.

Discussion

The Union opined that the Company was obligated under Title 212 to call the grievants as they had appropriately signed-up, made a commitment to be readily available, and there was no demonstration that the employees were too tired to work safely. Union further opined that employee's are routinely called back to work, both during regular work hours or on overtime before the expiration of an entitled rest period. Further, it is not uncommon for employees to work for similar periods as the grievants did during the weekend when there is no rest period entitlement, and receive a subsequent call-out with less than eight hours off.

Company stated a concern for the employees' ability to work safely as the reason for bypass and reserves the right to make that argument in another case with a different set of facts. However, in this case, the number of consecutive hours worked by the grievants were not unusually long and the record does not indicate that they were sent home because they either stated they were too tired to continue or because a supervisor made an objective observation that they were too tired to work safely (See Arb. 120).

Decision

The Review Committee is in agreement that the bypass of the grievants is not supported by the facts. Pursuant to Subsection 212.3(b) the grievants are to be compensated at the 1994 double time rate for the missed overtime assignment, approximately 7 hours.

It was also noted that there is a Letter Agreement 94-53 Committee recently established to discuss issues related to emergency response. It is the recommendation of the Review Committee that the Labor Management Committee consider issues related to safety and strategic staffing for periods of extended emergencies.

Further, the Review Committee agreed that if an employee is released from an overtime assignment based on Arbitration Case 120, i.e. either the employee requests to be released because of fatigue or the supervisor makes an objective observation that the employee is too tired to continue working safely, such employee is precluded from further overtime assignment until the employee has had at least eight hours off.

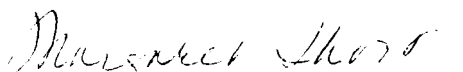
This case is closed based on the foregoing and the adjustment herein.


FOR COMPANY:

FOR UNION:

Bill Blastic  
Rod Maslowski  
Bill McLoughlin

Willie Boezak  
Jim Lynn  
Sherrick Slattery

  
\_\_\_\_\_  
Margaret A. Short, Chairman  
Review Committee

  
\_\_\_\_\_  
Roger W. Stalcup, Secretary  
Review Committee

9/12/96  
Date

9/18/96  
Date