



REVIEW COMMITTEE

IBEW



PACIFIC GAS AND ELECTRIC COMPANY
2850 SHADELANDS DRIVE, SUITE 100
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MARGARET A. SHORT, CHAIRMAN

DECISION
LETTER DECISION
PRE-REVIEW REFERRAL

RECEIVED by LU 1245
JULY 25, 2000

CASE CLOSED
FILED & LOGGED

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
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WALNUT CREEK, CALIFORNIA 94596
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BOB CHOATE, SECRETARY

Review Committee Decision No. 11437

Sue Ampi
Company Member
Local Investigating Committee

Kit Stice
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the discharge of a Lineman for allegedly throwing a hammer from a raised bucket.

Facts of the Case

The grievant and a temporary Electric Crew Foreman were approximately 60 feet in the air in double buckets. A T&D Assistant was on the ground to assist. The grievant called out to the Assistant a couple of times for a tool. The Assistant did not initially hear the grievant. At some point, the Assistant cupped his ear and was looking at the grievant. About this same time the grievant testified that he had something in his left hand and a hammer in his right hand that he used to gesture to the Assistant to move away from the running truck so he could hear better. The grievant testified that the hammer slipped out of his hand, that he did not throw it.

The Assistant stated the grievant yelled, "Does that make you hear better?" The grievant stated his comment was, "If you have a hard time hearing, you should get away from the truck." The Electric Crew Foreman who testified he saw the hammer flying through the air and land within a couple feet of the Assistant, testified he did not hear the grievant make any comment. The Crew Foreman also stated that the Assistant did not report the incident to him.

The grievant stated he did not call out to the Assistant to warn him of the hammer because he wasn't sure if the Assistant saw it coming and didn't want to startle him as he may have moved into the path of the hammer. Further, the grievant testified he did not apologize to the Assistant, that he just wanted to forget the incident had ever happened.

The Assistant also stated that later in the day the grievant made the statement to him, "good thing you moved or it would have killed you." Neither the grievant or Electric Crew Foreman confirmed this statement.

The grievant indicated that prior to the incident with the hammer, he dropped a hacksaw which fell to the ground but not near anyone. The Assistant stated he was unaware of this incident.

The T&D Assistant stated he had been harassed by co-workers for the two years since he'd transferred into this headquarters. The grievant stated that he and several other employees believe the Assistant had a hearing problem.

The grievant had almost 17 years of service and was on an active Written Reminder for failure to follow a proper work procedure resulting in a partial power outage to a school. There is a pending grievance over the Written Reminder.

Discussion

The Review Committee discussed this case at great length noting the discrepancies in the testimony of the crew. Of particular concern was the apparent unwillingness of the Crew Leader to address the situation when it occurred and his denial of hearing any comment. It is suspect that he did not hear the grievant make a comment at all, when the grievant testified he made a comment - just not what the Assistant alleges he said. If the Assistant, on the ground heard him, surely the Crew Foreman had to have heard the grievant. Also, the Committee noted that the truck was running and the Crew Foreman and grievant were 65 feet in the air.

The Committee discussed the line culture where it is not uncommon for Linemen to throw things off the pole. Sometimes this is a short-cut to lowering tools or materials to the ground; sometimes it is to get the attention of the ground help. While this is not approved behavior, it is not uncommon behavior. However, generally a warning is called out to the employee(s) on the ground. The warning that is commonly called out is, "headache".

Company opined that the grievant's actions and comments supported a belief that the hammer was intentionally thrown and not accidentally released. Company believes the grievant was trying to get the Assistant's attention, but not to hurt him. Even giving the grievant the benefit of doubt, his own testimony is that he dropped a hack saw earlier so it would seem he should have been even more careful.

The Company and the Union agreed that working safely is the highest priority and that unsafe practices cannot be tolerated or condoned and must be discontinued. Employees who engage in unsafe behavior will be subject to discipline up to and including discharge.

Decision

The Review Committee agreed to settle this case by reinstating the grievant with benefits intact except vacation forfeiture pursuant to Section 111.5 without backpay at the DML step of the Positive Discipline procedure effective for one year from his date of return. Further, this grievant's Written Reminder will be sustained and not deactivated until the DML is. If during the active life of the DML, any incident occurs which the grievant threatens any employee, the grievant will be discharged with redress to the grievance procedure only to establish that the incident occurred. Further, as with any employee on an active DML, if another incident occurs which warrants discipline, the grievant may be discharged. As the grievant was in the Commercial Driver DOT pool, he will need to successfully complete a Return to Work drug screen.

This case is considered closed on the basis of the foregoing and the adjustments contained herein.

For the Company:

Margaret A. Short
Ernie Boutte
Dave Morris
Malia Wolf

For the Union:

Bob Choate
William R. Bouzek
Ed Dwyer
Sherrick A. Slattery

By: Margaret Short

Date: 7/20/00

By: Bob Choate

Date: 7/20/00

