

7.1: The discharge of a System Operator with 10 years of service for misconduct (storing sexually explicit materials on "P" drive at work) associated with the cancellation of a clearance, and the writing of a switch log was for just and sufficient cause.

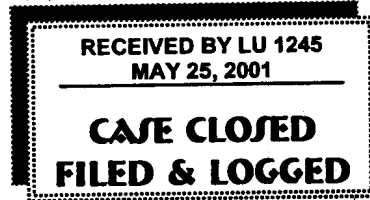


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MARGARET A. SHORT, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

## REVIEW COMMITTEE



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ELECTRICAL WORKERS, AFL-CIO  
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Review Committee No. 12140

Mary Cogan  
Company Member  
Local Investigating Committee

Larry Pierce  
Union Member  
Local Investigating Committee

### Subject of the Grievance

This case concerns the discharge of a System Operator with 10 years of service for misconduct associated with the cancellation of a clearance, and the writing of a switch log.

### Facts of the Case

Grievant was on an active written reminder and DML at the time of discharge. The written reminder was issued for storing sexually explicit material on Grievant's "P" drive at work. The Review Committee reduced the written reminder to an oral reminder in RC 11167. The DML was issued for fraudulently accessing the Internet and misuse of company time, and was upheld in RC 11468. Grievant also had a permanent letter in his file for abuse of sick leave.

On August 23, 2000, at the beginning of his 8-hour shift, Grievant was assigned to write the switching for a clearance scheduled for the Clearlake substation for August 24. He was scheduled for vacation August 24 and 25. A Planning Engineer had provided the D.O.s with load data the week prior, after determining that the clearance was feasible for August 24. The Engineer later testified that he was not contacted by the D.O.s with any questions or concerns about the accuracy or feasibility of the load data. Midmorning on August 23, the Maintenance Supervisor from Ukiah called to inquire about the switching log since he had not yet received it. He talked to the Grievant who told him there were problems with the loading, that he was working with the planning engineer on it, and that he thought that it would be better if the clearance was scheduled for a weekend or at night. Based on this discussion, the Maintenance Supervisor canceled the clearance at approximately 11:30 a.m. The last phone call with Grievant about rescheduling the clearance was approximately at 3 p.m. The Maintenance Supervisor, who had prepared manpower, materials and resources for the clearance, testified that he was led to believe by Grievant that there was no other alternative than to cancel it and reschedule for another day.

Throughout the day of August 23, the Grievant's supervisor checked in on the status of the switch log and each time was assured by Grievant that the log was coming along and would be completed in time. Before the supervisor left at 4:20 p.m. he again checked in with Grievant regarding the switching log and was never informed the clearance had been canceled. Another operator was assigned to check the completed switch log and waited for it all day. When Grievant left at 5 p.m., he told the operator that the clearance had been canceled. The switch log, which should have been 11 pages, was never produced. Company did an exhaustive search of computer back-up tapes and drives and found only 1 ½ pages of the switch log. The Grievant entered in the Switching Record Log (DOLIP) that the clearance was canceled by the Maintenance Supervisor at 4:24 p.m. DOLIP records and switch logs can become legal documents and are often retrieved for both regulatory and legal compliance.

### Discussion

Union members opined that, on August 23, Grievant had legitimate concerns about the clearance scheduled for the following day, and that the technical data contained in the Exhibits to the Joint Statement of Facts supports his concerns. They opined that the circuit loading was boarder line, and given weather conditions, there were legitimate concerns about the system's ability to handle the load transfers. Union members questioned why, during the day in question, the supervisor did not ask to see the switch log that Grievant was working on or take a look at it any time during that afternoon. Others in the room observed Grievant to be working on the log all day, including pinning the wall map. Union opined that Grievant had no reason to "fake it", since the switch log could have been used for the same purpose when the clearance was rescheduled.

Company members opined that Grievant demonstrated a complete lack of credibility throughout the investigation and in the grievance procedure. His explanations were not supported by the facts, he was on an active DML, and a supervisor should be able to trust that an employee is telling him the truth about the status of work. Company members questioned why, if Grievant was so concerned about the load, didn't he consult with other planning engineers, his supervisor or his peers, or make any attempt to contact the Engineer he had been working with other than a visit to his desk. The Engineer was actually on vacation that day but was available by pager or phone.

In discussing this case, the Review Committee agreed that there was corroborating information and evidence to support the testimony of the Ukiah Maintenance supervisor; the immediate supervisor, and the System Operator/Checker.

The Committee agreed that the Grievant misrepresented the truth when he told the Maintenance Supervisor that he was working with this Planning Engineer that very morning. Grievant again misrepresented the truth when he convinced the Maintenance Supervisor that loading prevented the clearance from occurring, and should be rescheduled to a night or weekend. He later contradicts himself when he testified that he told the supervisor the work could be rescheduled for any weekday. Other than the Grievant's opinion, there is no question the clearance would have gone through as planned.

Grievant falsified the time that the clearance was canceled on the DOLIP, showing the cancellation as 1624 (4:24 p.m.). The Ukiah Maintenance Supervisor testified that he called the Grievant on the morning of August 23<sup>rd</sup> to inquire as to the status of the

switch log as he had made arrangements for manpower, tools, and resources for the clearance on August 24. He had no other work that would have taken precedence. Phone records confirm that calls were made in the morning from Ukiah to the Santa Rosa D.O.'s office. Based on what the grievant told the Supervisor, the Supervisor canceled the clearance at 11:30 a.m., not 4:24 p.m. as entered in DOLIP.

The Grievant's testimony is that the Ukiah Supervisor called him about 3:30 p.m. to cancel the clearance. Phone records indicate that the call was made at 3:03 p.m. The Grievant did not make any note in DOLIP about the call until 4:24 p.m. Policy requires that such information be entered into DOLIP immediately.

Less than a month earlier, Grievant received training on the standards for maintaining accurate records for regulatory purposes. Company is required to report on reasons for cancellation of clearances, so the falsification of documents and records (such as the DOLIP) can become a serious legal compliance issue.

Grievant did not inform his coworker, who was waiting all day to check the switch log, of the cancellation until he was on his way out the door at 5:00p.m. The Grievant never informed his supervisor that day that the clearance had been canceled. Finally, operating policy requires that the official copy of a completed switch log be printed and filed in a binder in the D.O.'s office. No copy of the switch log the Grievant worked on was ever found in that binder.

The Committee agreed that Grievant's behavior on August 23 follows a pattern of fundamental dishonesty and misrepresentation of the facts in this and in previous incidents and investigations that led to a sick leave abuse letter, an oral reminder, and a DML.

#### Decision

The Review Committee agreed that the termination was for just and sufficient cause. This case is closed without adjustment.

#### **For the Company:**

Margaret A. Short  
Ernie Boutte  
Dave Morris  
Malia Wolf

#### **For the Union:**

Sam Tamimi  
William R. Bouzek  
Ed Dwyer  
Sherrick A. Slattery

By: Margaret Short

By: Salim A. Tamimi

Date: 5/23/01

Date: 5/24/01