



## REVIEW COMMITTEE

**IBEW**



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DOUG VEADER, CHAIRMAN

F. E. (ED) DWYER Jr, SECRETARY

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

### **Review Committee Number 22062 Customer Care – Office Services – Livermore**

Vanessa Parker  
Company Member  
Local Investigating Committee

Lou Mennel  
Union Member  
Local Investigating Committee

#### Subject of the Grievance

This case concerns the termination of a Senior Service Representative for misappropriation of Company funds and failure to follow Money Management Rules and Guidelines.

#### Facts of the Case

The grievant is a Senior Service Representative at a local customer service office. At the time of her termination, she has six years of service. The grievant had been working in her cash handling position for approximately one month and had received two coaching and counselling sessions for work performance issues.

The Company conducted an investigation into a cash shortage of \$207. The conclusion of the Security Department investigation was that the grievant had failed to follow cash handling procedures and had misappropriated the \$207.

#### Discussion

At outset of discussion, the Review Committee noted that the parties have long agreed that misappropriation of cash is cause for immediate termination. The issue in this grievance is whether the evidence is sufficient to support the conclusion that the grievant misappropriated the funds.

According to the Security Report, the conclusion that the grievant had misappropriated the funds, was based on actions which were deemed to be evidence of the grievant's attempt to conceal a specific cash payment of approximately the same amount as the shortage. The actions cited in the report were:

1. The cash payment was not sorted in her drawer until after the last customer transaction and immediately prior to removing the drawer
2. The payment was not posted to the customer's account

3. The grievant failed to endorse the cash stub or sign the receipt given to the customer

The Committee discussed the facts of the case as outlined in the Local Investigating Committee (LIC) Report and reviewed the Security camera footage. The Committee determined there was information which further explained some of the grievant's actions and in one instance that the grievant did not actually take the action attributed to her.

During the LIC, the grievant indicated that immediately prior to the transaction in question, the printer stopped working. This threw her off as this was the first time this had happened to her. She set the payment aside (rather than sort it) to figure out how to handle the situation once the customer left. She properly sorted the money immediately prior to moving to another station where there was a working printer. The video confirmed the break-down of the printer and the timing of grievant's sorting of the cash.

The Committee reviewed the receipt which the Corporate Security Report indicated the grievant had failed to sign. The grievant did in fact sign the receipt. The statement in the Security Report was not factually correct.

After lengthy discussion, the Review Committee agreed that the evidence which was initially relied upon to conclude that the grievant had misappropriated the funds was not as conclusive as originally thought. In one case, there was further explanation for the grievant's actions and in another, the evidence was not factually correct. The Committee agrees that there is sufficient doubt whether the grievant misappropriated the funds. There is no doubt, however, that the grievant failed to follow proper money management procedures.

#### Decision

The Committee agrees to close this grievance by reinstating the grievant under the conditions listed below. The agreement to reinstate, and the terms of reinstatement, are made without prejudice and precedence and are based on, and applicable to, the facts of this case only.

- Demotion to Customer Service Representative
- Placement on a Written Reminder in Work Performance
- 50% back-pay (offset by 50% outside earning)
- Reinstatement of benefits

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

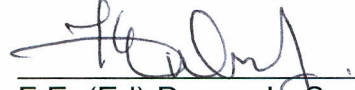
Laura Sellheim  
Rod Williams  
Tanya Moniz-Witten

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

Jim Brager  
John Blaylock  
Karen Russell

  
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Doug Veader, Chairman  
Review Committee

6/13/14  
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Date

  
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F.E. (Ed) Dwyer Jr, Secretary  
Review Committee

6/13/14  
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Date