

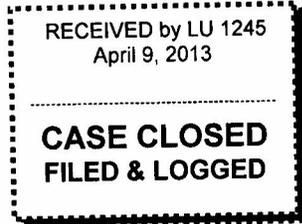


## REVIEW COMMITTEE



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INTERNATIONAL BROTHERHOOD OF  
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LOCAL UNION 1245, I.B.E.W.  
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DOUG VEADER, CHAIRMAN  
☐ DECISION  
☐ LETTER DECISION  
☐ PRE-REVIEW REFERRAL

F.E. (ED) DWYER Jr, SECRETARY

### Review Committee Number 21182 Electric Operations – Electric T&D – Stockton

Debbie Sargent  
Company Member  
Local Investigating Committee

John Mendoza  
Union Member  
Local Investigating Committee

#### Subject of the Grievance

This case concerns the discharge of an Electric Crew Foreman due to a serious safety incident on his crew.

#### Facts of the Cases

The grievant is an Electric Crew Foreman with 21 years of service and no active discipline at the time of discharge. The grievant was in charge of a two person crew consisting of himself and a Lineman. The crew was assigned to replace a streetlight duplex conductor that had come down during a windstorm.

The Lineman was working from a single person bucket truck to re-establish service to a streetlight when he noticed slack in the open wire secondary. The crew decided to install a spreader bracket to minimize the potential for slapping of the conductors. During the installation there was an electric contact which resulted in the death of the Lineman. The Lineman was wearing Mechanix gloves when he installed the spreader bracket, rather than rubber gloves as required.

During the investigation into the incident, the grievant stated that when he tossed the spreader bracket, he noticed that the Lineman did not have his rubber gloves on. He believed that the Lineman had his rubber gloves in the bucket and would put them on as required before installing the spreader. He further stated that he reminded the Lineman that the line was hot. He further stated that he did not see him install the spreader and had he seen him do so without the rubber gloves he would have stopped him.

#### Discussion

The Company argued that discharge was appropriate in that the grievant failed to exercise sufficient leadership of his crew. The most serious failure was to ensure his crew had the proper PPE on, but he also failed to adequately tailboard the work, cone off the worksite, chalk the vehicle tires, and use a hand-line. While the grievant may not have directly seen the Lineman applying the spreader bracket without rubber gloves, he should have ensured he had them when he tossed the bracket.

The Union responded that it believes the grievant was discharged because there was a fatality and due to the mischaracterization of his comments during the investigation that he didn't think it was a big deal when he saw the Lineman with Mechanix gloves. He had made it clear that he didn't think it was a big deal because he believed the Lineman had his rubber gloves and was going to use them. He did not mean that he thought it was acceptable to apply the bracket without rubber gloves or that thought he was going to do so.

The Union further argued that that the Lineman as a journeyman was responsible for wearing required PPE. Arbitration Decision 300 supported the Union's argument that there is no expressed rule that specifically requires Crew Leaders to remind their crew to wear appropriate PPE before each operation. Had the grievant observed the Lineman applying the spreader bracket without rubber gloves he would have an obligation to stop the job, but he did not observe that. Finally, the nature of the work was single person work which did not require an observer. As such, the grievant's statement that he was performing other work at the time, is reasonable and not a violation of the rules.

The Company does not agree with all of the Union's arguments. It does agree, however, that the evidence in this case does not convincingly demonstrate that the grievant knowingly allowed the Lineman to work on energized secondary without rubber gloves. Combining this with the grievant's long service and good safety record; the Company agrees that some action short of discharge is appropriate.

Decision

The Committee agrees the grievant will be reinstated, without prejudice and precedence, under the conditions listed below:

- Placed on a DML effective upon his return to work
- Demoted to Lineman and ineligible to bid higher classification during 12 month DML period as per Title 205.11(a) of the Physical Agreement
- No back pay or benefits except sick time accumulated at the time of discharge will be reinstated to his sick leave bank
- Seniority intact at the time of reinstatement
- Must pass pre-employment drug screen
- Must successfully complete the agreed to Electric Operations Qualification assessment

**For the Company:**

Doug Veader  
Laura Sellheim  
Rod Williams  
Tanya Moniz-Witten

**For the Union:**

F.E. (Ed) Dwyer Jr.  
James Brager  
Mike Scafani  
Karen Russell

By: Doug Veader  
Date: 4/5/13

By: F.E. Dwyer Jr.  
Date: 4/5/2013