



REVIEW COMMITTEE

7.1: An Electric Crew Foreman discharged for misuse of P-card will be reinstated without back pay as a CDLA Lineman upon successful completion of a DOT return to work drug screen, but the DMLR will remain active for 6 1/2 months following return to work and a C&C will be noted on his Performance Log for the misuse.



IBEW

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R.W. STALCUP, SECRETARY

RECEIVED
JAN. 20, 1999
CASE CLOSED
FILED & LOGGED

MARGARET A. SHORT, CHAIRMAN

-] DECISION
-] LETTER DECISION
-] PRE-REVIEW REFERRAL

REVIEW COMMITTEE FILE NO. 1820 ARBITRATION CASE NO. 229

JODEANE FISCHER
Company Member
Local Investigating Committee

GARY HUGHES
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the discharge of an Electric Crew Foreman, Los Banos, for misuse of his P-Card.

Facts of the Case

The grievant was employed November 20, 1972 and discharged effective April 10, 1998. At the time of the discharge, the grievant had an active DML (October 29, 1997) and WR (March 3, 1997) resulting from work performance errors.

Some time prior to March 30, 1998 the grievant went on scheduled vacation. He was due to return to work on March 30, but instead called in at the start of the workday and talked to an Electric T&D Assistant. The grievant informed the T&D Assistant that he was having car trouble, wouldn't be able to report for work, and asked for a vacation day which was granted. The T&D Assistant relayed the message to the Distribution Supervisor.

The next day, March 31, the grievant called in again. This time he spoke with the Distribution Supervisor informing him that he was still trying to get his car repaired but was having difficulty getting the money. The supervisor said the call from a cell phone was disconnected. The supervisor did not talk with the grievant again. The supervisor testified that at the end of the day on April 1, he found a copy of the P-Card receipts for charges made by the grievant and two personal checks to reimburse the Company for the personal charges. Company processed the checks for payment and they cleared.

The grievant testified that he called several people to borrow money but was unsuccessful. Further, he testified he tried to get an extension on his personal credit

card but was denied. He also stated the car repair facility would not accept a personal check.

After talking to the supervisor on March 31 and without asking for permission, the grievant used the P-Card to charge the \$231.73 to repair the vehicle and another \$18.30 to get something to eat for his wife, daughter, and himself.

The following morning, when the grievant reported for work, he placed on his supervisor's desk the receipts for the two purchases on the P-Card. Along with the receipts, he also placed two personal checks on the desk. Both checks were payable to PG&E, one in the amount of \$231.73 and the other for \$18.30. The Foreman's Clerk notified the supervisor, who was in Fresno for a meeting, of the situation. Both checks were deposited to a PG&E account and both cleared.

The grievant indicated he'd taken his family to Mexico on vacation and the car broke down on the grapevine on the way back. He stated they spent the night in the car on March 30 and that it was snowing.

The grievant acknowledged he knew it was inappropriate for him to make personal charges on the P-Card. He stated he did not ask permission because he knew the supervisor would say, no. The supervisor affirmed that he was not asked and if he had been would have denied the request.

Discussion

There is agreement that inappropriate use of the P-Card has resulted in discipline up to and including discharge of other employees. There is also agreement that the grievant's actions appropriately subjected him to some disciplinary consequence. However, this is where the agreement ends.

Company stated it discharged the grievant because under the Positive Discipline Procedure an employee on an active DML who is subject to further discipline shall be discharged.

Union stated that there are a couple of other options available to the Company, either a coaching and counseling or a mitigation of discharge. Union opined that if ever there was a case that warranted mitigation, this would be one. In support of its position, the Union cited Paragraph III A of the PD Agreement:

"Notwithstanding the foregoing, if a performance problem which normally would result in formal discipline occurs during an active DML, the Company shall consider mitigating factors (such as Company service, employment record, nature and seriousness of violation, etc.) before

making a decision to discharge, all of which is subject to the provisions of the appropriate grievance procedure for bargaining unit employees. In addition, a summary of the decision not to terminate should be documented and placed in the employee's Personnel File, and the employee should be given a copy of the summary."

Union referred this case from Review Committee to Arbitration. After the referral, Company reassessed its position and made an offer to settle the case.

Union opined the proposed settlement was overly severe and did not meet the tests of just cause. However, in keeping with the policy of the Union, the grievant was made aware of the settlement offer. Due to the financial hardship he and his family had suffered following the termination, and infrequent employment opportunities, the grievant requested that he be allowed to return to work pursuant to the settlement offer.

DECISION

Notwithstanding its opinion on the severity of the punishment, the Union agreed to close this case on the following basis:

- The grievant will be reinstated without back pay as a CDLA Lineman in Los Banos upon successful completion of a DOT return to work drug screen
- The DML will remain active for 6 ½ months following his return to work
- A coaching and counseling will be noted on the Performance Log for the P-Card misuse
- The grievant will be considered under active counseling for the purposes of Sections 205.11 and 205.14(a) of the Physical Agreement precluding him from bidding to a classification having a higher maximum wage rate.

Service and benefits are intact with the exception of vacation pursuant to Subsection 111.5(a) of the Physical Agreement.

This case is considered closed on the basis of the foregoing and the adjustments contained herein. This settlement is without prejudice to the position of either party.

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

1/12/99
Date

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

1/12/99
Date

