

REVIEW COMMITTEE

PG and E

PACIFIC GAS AND ELECTRIC COMPANY
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**CASE CLOSED
LOGGED AND FILED**

RECEIVED MAY 13 1980

IBEW

INTERNATIONAL BROTHERHOOD OF
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LOCAL UNION 1245, I.B.E.W.
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L.N. FOSS, SECRETARY

D.J. BERGMAN, CHAIRMAN

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

General Construction Grievance No. 3-395-78-46
P-RC 432
Placed on Voluntary Leave of Absence,
Equipment Mechanic

May 9, 1980

MR. R. S. BAIN, Chairman
General Construction
Joint Grievance Committee

Statement of the Case

On February 8, 1978, the grievant, an Equipment Mechanic, employed by the General Construction Services Department in Oakland, fainted on the job. Despite his protest, he was taken to Providence Hospital and examined. The examining physician opined that his fainting was caused by physical exertion; i.e., hyperventilation, and released him to return to work the same day.

Because the employee had previously suffered dizzy spells on the job and had been granted sick leave to recover from these effects in 1977, the Department would not accept the Providence Hospital physician's recommendation and did not permit him to return to work.

Accordingly, the grievant was off the active payroll from February 9 through March 20. During that period of time, he was shown on the Department's records as off sick with pay, or without pay, or on vacation.

The ultimate question in this case is whether the employee was properly required to be off work without pay.

Discussion

The facts of this case inextricably require the Pre-Review Committee to judge whether the grievant's absences were medically required; notwithstanding the divergence of opinion of the medical doctors who had examined the grievant.

To put this in an understandable posture, the Local Investigating Committee report, which is before this Committee, notes that the grievant was examined, at Company's request, by a physician employed by the Providence Hospital who certified that the employee was capable of returning to work. When this diagnosis was not accepted, the Company placed the employee on "leave" status and referred him to other medical physicians for further evaluation; after which the initial medical findings were seemingly affirmed, and the employee released for work.

This case focuses on who should bear the loss of income or productivity while the employee pursues a course of medical diagnosis required by the Company in contradiction to the original findings of the first physician chosen by the Company.

Unquestionably, the Company has a right to restrict employees in the performance of their usual occupation to insure that the employee does not incur further injury from a medically related problem or possibly cause the inadequate repair of equipment entrusted to his care because of a similar problem. In the final analysis, however, where the facts concede that the employee was capable of returning to work on the same day that he fainted, and the later examinations ordered by the Company do not refute the initial medical finding, then the Company, and not the employee, should bear the cost.

Decision

The decision of this Committee rests on a narrow, factual situation. However, in the light of the foregoing, the employee is entitled to wages for the period commencing with February 9 and thereafter. This Decision necessitates that the sick leave and vacation taken following February 8 through March 20 will be restored.



L. V. BROWN
For the Company



L. N. FOSS
For the Union

LVB:rto

cc: IWBonbright
LCBeanland
GSBates
JACates/DKLee

MEBadella
LVBrown
FCBuchholz
RHCunningham

NRFarley
CAMiller
JBStoutamore
WKSnyder

CPTaylor
Division Personnel
Managers