

**REVIEW COMMITTEE****PG and E**

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 R.W. STALCUP, SECRETARY

**CASE CLOSED  
 LOGGED AND FILED**

JUN 19 1981

D.J. BERGMAN, CHAIRMAN

- DECISION  
 LETTER DECISION  
 PRE-REVIEW REFERRAL

General Construction Grievance No. 3-864-80-149  
 P-RC 629

June 19, 1981

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

Statement of the Case

The grievant in this case protests his termination of employment on October 14, 1980. The grievant was hired in 1971 as a Helper in General Construction Gas. At the time of his discharge, he was a Miscellaneous Equipment Operator B.

Discussion

The grievant's disciplinary record preceding the incidents of October 14, 1980 is not in dispute. The most recent prior incident being his suspension for five work days for directing "abusive" language and threats of bodily harm to his foreman. The suspension was grieved and upheld.

The grievant's record prior to the final incident demonstrates that the grievant is not a cooperative, productive worker; he is argumentative and disruptive on the job. He has frequently been rotated on various crews on complaint of working foremen and fellow employees. Unquestionably, on October 14, the relationship between him and his working foreman and the exempt supervisor was seriously strained.

That brings us to the employee's last day at work. The day before, a fellow worker requested that the grievant be removed from the crew as the grievant was uncooperative, argumentative and threatening. Later the grievant also asked to be reassigned because "he felt harassed" by crew members because of "the ethnic (Italian) references" directed at him. The grievant's exempt supervisor said that "nothing could be done about the (ethnic) jokes" but that he would see about a crew transfer. At that point, the grievant and the supervisor exchanged verbal unpleasanties.

The following morning the supervisor inquired of the working foreman as to a further crew rotation for the grievant. The working foreman believed he could handle the situation, i.e., do not take the grievant off his crew.

Thereafter the supervisor informed the grievant that he would either report to the same crew or "go home." The grievant left commenting that he was "going to see his doctor about an industrially incurred "shoulder injury." The Committee later confirmed that the grievant did see his personal physician that date but had not previously reported an industrial injury.

Taking all of the foregoing into account, the Pre-Review Committee concurs that: (1) the grievant had engaged in verbal abuse of exempt and bargaining unit foremen and fellow employees (2) that his work performance when assigned to a bargaining unit crew was not up to standard and (3) that on the final day of his employment he refused an exempt supervisor's order to work with an assigned crew without full justification.

### Decision

The Pre-Review Committee is in agreement that the grievant was insubordinate on October 15, 1980 and when viewed with his recent work record, a heavy disciplinary action is warranted. However, taking into account the supervisor's statement that he would not investigate the alleged ethnic slurs, that the grievant's leaving the work site would not result in discharge and the record implication that the grievant's work was acceptable for the first ten years of his employment, discharge was inappropriate.

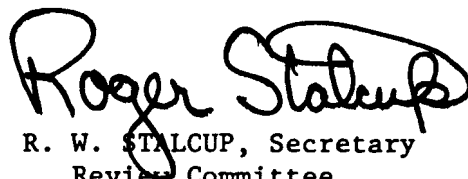
While this decision will offer the grievant reinstatement, it must not be read as condoning the grievant's job misconduct. In this regard, the Pre-Review Committee endorses the principle that work orders must be followed, and then grieved, unless the order places the grievant's well-being in serious jeopardy beyond the scope of his employment. Such was not the case here.

For all of the foregoing reasons, the grievant will be offered reinstatement in his former classification subject to whatever demotions or layoffs that may have occurred as a result of the current layoffs for lack of work, without a retroactive wage adjustment. If he accepts the offered employment reinstatement, his seniority and benefits will be restored.

Finally, any further acts of insubordination will be grounds for discharge. If such occurs within one year of the date of this decision, only the alleged facts may be tested in the grievance procedures. That is to say if in this time period the grievant is insubordinate, his discharge will stand.



D. J. BERGMAN, Chairman  
Review Committee



R. W. STALCUP, Secretary  
Review Committee

LVBrown(1165):ml

cc: GSBates	RHCunningham
MEBadella	NRFarley
LCBeanland	CAMiller
LBlandford	JBStoutamore
IWBonbright	WKSnyder
FCBuchholz	CPTaylor
JACates/DKLee	RCTaylor
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