

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

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INTERNATIONAL BROTHERHOOD OF
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 R.W. STALCUP, SECRETARY

**CASE CLOSED
 LOGGED AND FILED**

MAR 16 1983

D.J. BERGMAN, CHAIRMAN

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

General Construction Grievance No. 3-1086-82-45
 P-RC 802

March 16, 1983

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

MR. G. VALLEY, Chairman
 General Construction
 Joint Grievance Committee

Grievance Issue

Tractor Operator A's on crews supervised by Working Foreman D's.

Background

The following note is included in Exhibit X of the Physical Agreement:

"The craft at which the Foreman, himself is working while supervising the crew is to be included in determining his proper grade of Working Foreman. The step in which a new Working Foreman is placed in a particular grade shall be at least 4 percent over his present craftsman rate, or 4 percent over the highest rate supervised, excluding specialists such as Trencher, Backhoe Operator, or Hole Digger Operator assigned to the crew."

This note applies to all of the General Construction Working Foreman classifications.

In 1982, the rates of pay for the Working Foreman B, C and D classifications were as follows:

Working Foreman B	Start	\$608.00
	End 6 Mos.	618.15
Working Foreman C	Start	\$552.35
	End 6 Mos.	581.05
Working Foreman D	Start	\$525.95
	End 6 Mos.	535.55
	End 1 Yr.	544.20

The rate of pay for the Tractor Operator A classification in 1982 was \$587.40.

Facts of the Case

The grievants are two Working Foreman D's in the Line Construction Department. During March and April 1982, two Tractor Operator A's were assigned to crews supervised by the grievants.

Discussion

The Union alleged that the grievants should have been upgraded to the Working Foreman B classification during the time they supervised the Tractor Operator A's. The Union based its position on the fact that the Tractor Operator A classification is not specifically shown as a "specialist" in the cited note; therefore, Union claimed, the grievants should have been paid at 4 percent over the Tractor Operator A rate (i.e., Working Foreman B).

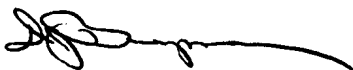
The Company maintained that the words "such as" in the cited note clearly demonstrate that the classifications shown in the note are intended to be examples only, and that, therefore, the "specialist" exclusion in the note is not limited to those classifications. The Company further maintained that Tractor Operator A is a "specialist" classification like the classifications shown in the note, and stated that Tractor Operator A's commonly "float" from crew to crew like employees in the classifications in the note. Considering these factors, Company stated, the grievants were not due upgrades when the Tractor Operator A's were assigned to their crews.

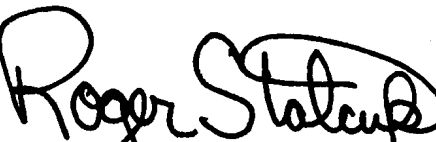
Decision

The Pre-Review Committee found no document which clarified whether the exclusion contained in the cited note was intended to apply only to the three classifications listed in the note, or to these three classifications plus other similar or similarly-used classifications. The Committee noted that the grievants and the exempt Foreman who supervised the grievants during the period in question told the Local Investigating Committee that Working Foreman D's in the Line Construction Department have regularly supervised crews containing Tractor Operator A's.

In the light of these factors, the Pre-Review Committee is not willing to overturn Line Construction's apparent regular past practice regarding Working Foremen's rates of pay when Tractor Operator A's are assigned to their crews (i.e., not upgrade the Working Foreman). However, this decision has no application to other Departments' practices, and is without prejudice to future cases.

The case is closed on this basis.


D. J. BERGMAN, Chairman
Review Committee


R. W. STALCUP, Secretary
Review Committee