

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

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INTERNATIONAL BROTHERHOOD OF
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 R.W. STALCUP, SECRETARY

CASE CLOSED OCT 31 1983
LOGGED AND FILED

D.J. BERGMAN, CHAIRMAN

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

San Francisco Division Grievance No. 2-816-82-116
 P-RC 846

October 13, 1983

MR. K. H. ANDERSON, Company Member
 San Francisco Division
 Local Investigating Committee

MS. D. FORTIER, Union Member
 San Francisco Division
 Local Investigating Committee

The above-subject grievance has been discussed by the Pre-Review Committee prior to its docketing on the agenda of the Review Committee and is being returned, pursuant to Step Five A(1) of the grievance procedure, to the Local Investigating Committee for settlement in accordance with the following:

Subject of the Grievance

This case concerns the denial of one day of sick leave pay and a two-day disciplinary layoff for continued unavailability.

Facts of the Case

The grievant is a Utility Clerk in the Operating Clerical Department in San Francisco. She was employed on June 11, 1980, and her record includes the following:

- 5/13/82 Letter of reprimand and docking of 1½ hours for failure to return to work in a timely manner from a funeral.
- 7/9/82 Letter of reprimand and docking of ½ hour for continuing tardiness.
- 7/28/82 The grievant was counselled by her supervisor concerning her excessive absenteeism and told that, for all future absences for reasons of illness, satisfactory proof would be required.
- 8/12/82 Letter of reprimand and a two-day disciplinary layoff for tardiness.
- 10/15/82 Denial of sick leave pay. Proof of illness was not considered satisfactory.
- 11/19/82 Letter of reprimand denying sick leave pay for November 15, 1982 and confirming two-day disciplinary layoff for continuing unavailability (subject of this grievance).

The denial of sick leave pay for the October 15, 1982 absence was grieved. The Company's action was sustained pursuant to Section 7.8 of the

Clerical Agreement based on testimony taken during the Local Investigating Committee meeting which revealed that the grievant was observed at the entrance of the Bay Bridge apparently having car trouble at the time she alleged she called Kaiser Hospital and her supervisor from her home. The supervisor informed the grievant that he did not consider the Kaiser slip satisfactory proof of illness because it involved telephone advice only and it contained no diagnosis.

Upon her return to work on November 16, 1982 following her absence on November 15, 1982, the grievant gave her supervisor another Kaiser slip which indicated she had been seen by a doctor at the hospital on November 15, 1982 and could resume work on November 16, 1982. The slip did not have a diagnosis. The supervisor told the grievant that was not satisfactory proof and denied pay for November 15, 1982. On November 24, 1982, the grievant gave the supervisor another slip which was dated November 12, 1982 excusing her from work for November 15, 1982 and October 15, 1982. The diagnosis was viral illness with sore throat.

The November 19, 1982 letter of reprimand states:

"As a result of your record of unavailability for work, and particularly because of the latest two sick leave incidents on October 15 and November 15, you are hereby given a two-day disciplinary layoff, without pay..."

Discussion

In reviewing this case, the Committee discussed Review Committee Decision 1205 and 1256 and Pre-Review Committee Decision 389. The November 19, 1982 letter indicates that, on July 28, 1982, the grievant was put on notice to provide proof of illness for her excessive absenteeism. However, in reviewing the grievant's 1981 and 1982 Time Records, it is noted that, in 1981, she used 107 hours of sick leave, 57 percent of which was either on a Monday or Friday. Through July 28, 1982, she used 43 hours of sick leave with one day or 19 percent on a Monday. Based on this record, it would have been appropriate on July 28, 1982 to have written the grievant a counselling letter outlining her excessive absenteeism and indicating that the pattern of her usage raised a reasonable suspicion that she may have been abusing her sick leave. Following her absence on October 15, 1982, a disciplinary letter should have been written citing Section 7.8 as the reason for denying sick leave pay and informing the grievant of the consequences should she again abuse her sick leave. It should have also informed the grievant of what would be considered acceptable proof of illness.

The Committee argued that in most cases when an employee is counselled concerning unavailability for work, such counselling is documented in written form. Further, when an employee is initially required to provide proof of illness, it is not limited solely to a doctor's slip as the parties have agreed that satisfactory proof of illness may take various forms. With respect to the Kaiser slip the grievant provided on November 16, 1982, it does indicate that the grievant was seen at the hospital and did not just receive telephone advice. In other instances, the parties have agreed to allow employees additional time to provide satisfactory proof of illness, and in light of the fact that this was only the grievant's second absence since being "put on notice", agrees to consider the slip submitted on November 22, 1982 as satisfactory proof of her illness on November 15, 1982.

October 13, 1983

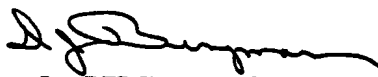
Decision


Based on all of the facts present in this case, the Pre-Review Committee agreed that denial of sick leave pay for November 15, 1982 and the two-day disciplinary layoff for "continuing unavailability" are inappropriate. However, the grievant will be required to provide proof of illness in the form of a doctor's note containing a diagnosis until October 15, 1983, after which she will be required to provide satisfactory proof of illness until such time as her supervisor notifies her in writing that proof is no longer required.

Being unavailable for work may, in fact, result in termination, but a disciplinary suspension without pay in the course of reaching that end point is inappropriate. Time off is appropriate, though not limited to, instances where there is a demonstration that abuse, misrepresentation, falsification, failure to follow call-in procedures, tardiness, or an unauthorized absence occurred.

The letter to the grievant dated November 19, 1982 is to be revised per the attached.

This case is closed on the basis of the foregoing and the adjustment provided therein, and the closure should be so noted by the Local Investigating Committee.


D. J. BERGMAN, Chairman
Review Committee


R. W. STALCUP, Secretary
Review Committee

MAShort(1123):ml

Encl.