

REVIEW COMMITTEE**PG and E**

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IBEW 

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
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(415) 933-6060
R.W. STALCUP, SECRETARY

**CASE CLOSED
LOGGED AND FILED**

AUG 3 1 1984

D.J. BERGMAN, CHAIRMAN

RECEIVED AUG 3 1 1984

- ☐ DECISION
☐ LETTER DECISION
☐ PRE-REVIEW REFERRAL

San Joaquin Division Grievance No. 25-551-82-56
P-RC 848

August 30, 1984

MR. D. S. SOLBERG, Company Member
San Joaquin Division
Local Investigating Committee

MR. RON VAN DYKE, Union Member
San Joaquin 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(v) of the grievance procedure, to the Local Investigating Committee for settlement in accordance with the following:

Subject of the Grievance

This grievance concerns the placement of an industrially injured Line Subforeman into an Assistant Foreman's Clerk classification in lieu of retaining him as a non-climbing Subforeman pursuant to Subsection 112.10(b) of the Physical Agreement.

Facts of the Case

The grievant was employed on April 2, 1962 as a Groundman, progressed to Line Subforeman on November 8, 1976, and suffered an industrial injury to his back on October 19, 1976. Following the injury, the grievant worked without restriction until June 6, 1977 when he went on the Compensation Payroll. For the next two years, he was on and off the Compensation Payroll for varying periods until September 5, 1979 when he returned to work on light duty with preclusions from climbing and lifting over 50 pounds.

From September 5, 1979 until June 28, 1982 when he was appointed pursuant to Section 206.15 of the Physical Agreement to the Assistant Foreman Clerk position, the grievant performed various light duty assignments. These assignments, some of which were temporary in nature, included: numbering streetlight poles; replacing streetlights from a special aerial lift; the operator of the boom controls on a line truck; underground inspections; conversion of streetlights from mercury vapor to high pressure sodium vapor; overhead line work from the basket of a wire stringer; inspected transformers located near waterways and food processing sites for PCB; and set meters.

The grievant indicated there were three or four occasions during this period when it was necessary for him to climb poles and that he also lifted in excess of 50 pounds.

August 30, 1984

Following an examination on September 10, 1980, the grievant was found to be permanent and stationary with preclusions from climbing and heavy lifting (50 percent loss from pre-injury capacity - no greater than 50 pounds). An Applicant's Medical Report dated August 5, 1981 expanded the grievant's preclusions to include repeated bending and stooping.

The Selma yard has nine Line Subforemen, nine Linemen and four Troublemens. On November 15, 1982, another employee, a permanently disabled Lineman, with less seniority than the grievant, was designated as a "one in ten" (Subsection 112.10(b)) Lineman. In other words, this employee would be retained at the Lineman's rate of pay and the work assignments made commensurate with his physical limitations which consisted only of a preclusion from climbing wood poles.

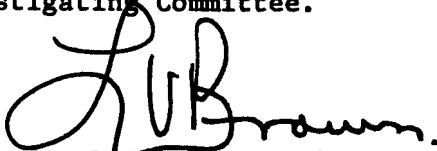
Discussion

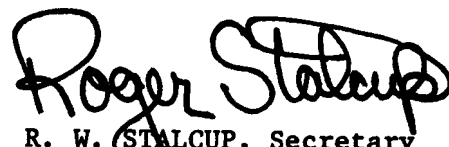
Company took the position that given the grievant's limitations, there was insufficient work available in the Subforeman classification. The Union, on the other hand, argued that the Company had been able to provide work for the grievant for approximately 22 months, and he had performed such work without incident. Company responded that a good portion of the assignments had been project work which was no longer available. The Local Investigating Committee was requested on two occasions to gather additional information concerning what work was available in Selma in the Subforeman classification that could be performed by the grievant. The second request was specific--to determine how frequently the bucket rig was utilized. This information was forwarded to an Agreed Medical Examiner. The Agreed Medical Examiner concluded that the grievant, at this time, has no physical limitations and can climb without restriction.

Decision

Based on the facts of this case and without prejudice to the position of either party, the Pre-Review Committee agrees to an equity settlement in an amount equivalent to the difference in pay between a Line Subforeman and an Assistant Foreman's Clerk for a period of six months from January 2, 1984 to June 1, 1984. This is the period during which the grievant could have been given a trial on the bucket truck. Further, the parties are in agreement that the grievant has Section 206.9(a) rights to return to Line Subforeman, Selma. Such preferential consideration is applicable to permanent as well as temporary assignments.

This case is considered closed on the basis of the foregoing and the adjustments provided herein. Such closure should be noted by the Local Investigating Committee.


L. V. BROWN, Chairman
Review Committee


R. W. STALCUP, Secretary
Review Committee

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