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PACIFIC GAS AND ELECTRIC COMPANY
245 MARKET STREET, ROOM 444
SAN FRANCISCO, CALIFORNIA 94106
(415) 781-4211, EXTENSION 1125

D.J. BERGMAN, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

REVIEW COMMITTEE

MAY 29 1984

**CASE CLOSED
LOGGED AND FILED**

RECEIVED MAY 25 1984

San Francisco Division Grievance No. 2-879-83-79
P-RC 898

May 25, 1984

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:

Grievance Issue

The grievant received a ten-day disciplinary suspension and letter for continued excessive unavailability from work.

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 1- $\frac{1}{4}$ hours for failure to return to work in a timely manner from a funeral.
- 7/9/82 Letter of reprimand and docking of half-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 continued unavailability. (Two-day layoff restored pursuant to P-RC 846.)

7.8
24.1

IBEW 

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 4790
WALNUT CREEK, CALIFORNIA 94596
(415) 933-6060
R.W. STALCUP, SECRETARY

4/29/83 The grievant was counselled by her supervisor after arriving to work 3-3/4 hours late.

Stressed to the grievant was the seriousness of continued failure to maintain a satisfactory attendance record. Between the November 19, 1982 letter and the April 29, 1983 counselling, the employee was off 21-3/4 hours sick on four separate occasions. Following the April 29, 1983 counselling regarding attendance, the employee was again off on two occasions for 9-3/4 hours and was one-half hour late to work on another occasion. Following the 30-minute late reporting time to work on June 6, 1983, the employee was given a 10-day disciplinary suspension and letter dated June 7, 1983 (subject of this grievance).

Discussion

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. During 1982, the employee used 67-1/2 hours of sick leave over a 30-day period with seven of the days in conjunction with a weekend or normal days off. Also during 1982, the employee was late on eight separate occasions. Then for the period of January 1, 1983 through June 6, 1983, the employee was again sick for 27 hours on five separate occasions and late on two additional days.

This case again raises the issue of appropriate discipline for an employee's unavailability for work due to illness. Absences without pay, without permission (except as provided for in Section 7.8 of the Clerical Agreement and 112.8 of the Physical Agreement) tardiness, and failure to follow call-in procedures, will normally subject an employee to the constructive disciplinary process including disciplinary time off and ultimately discharge. The confusion seems to center around whether or not disciplinary time off is proper for unavailability standing by itself.

Review Committee Decision Nos. 1205 and 1256 and Section 112.8 of the Physical Agreement and 7.8 of the Clerical Agreement clearly establish the Company's right to require satisfactory evidence of illness before sick leave pay will be granted to an employee suspected or shown abusing sick leave. The Review Committee Decision gives several examples of suspicious usage patterns; however, it is not all inclusive. Through numerous grievance decisions since Review Committee Decision Nos. 1205 and 1256, the parties have also agreed that the Company has the right to require satisfactory evidence of illness in cases of excessive use of sick leave. This issue was sustained in P-RC No. 389.

The issue in the instant case revolves around whether or not the Company should give time off to an employee for continued unavailability for illness and tardiness. The Committee does not believe time off should be given to an employee who uses excessive amounts of sick leave. It is illogical to reprimand an employee for being away from work too much and then give that employee more time away from the job. Employees should be made aware that both the Company and Union agree that termination will occur in those cases where employees fail to improve their attendance after being given appropriate notification, where justified, in the form of a "final" letter. The "final" letter would be given at the third step of the constructive discipline process in lieu of time off.

A disciplinary suspension continues to be appropriate, though not necessarily the only suitable disciplinary action, in instances where there is a failure to follow call-in procedures, tardiness or an unauthorized absence (i.e., without pay, without permission) occurs. In accordance with Section 112.8 and 7.8, "If an employee abuses the sick leave provisions of this Agreement by misrepresentation or falsification, he shall restore to Company all sick leave payments he received as a result of such abuse. In case of recurring offenses by the employee, Company may cancel all or any part of his current and cumulative sick leave, and may treat the offense as it would any other violation of a condition of employment."

The two-day disciplinary layoff the grievant received on November 19, 1982 was restored to the employee in P-RC 846. The basis for the Committee's decision in that case was for those reasons stated above.

Decision

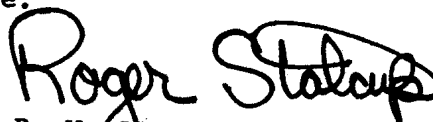
In four of the instances cited above (May 13, 1982, July 9, 1982 August 12, 1982 and April 29, 1983), as well as the June 6, 1983 incident, the employee was disciplined for continuing tardiness. Then on June 7, 1983, the employee was notified of a ten-day suspension for the combination of tardiness and continuing unavailability for work due to illness.

The Committee agreed the grievant's availability continues to be unacceptable; however, in remaining consistent with prior decisions and the above reasoning, the ten-day disciplinary layoff is inappropriate. The Committee does agree, however, that the employee should receive a two-day disciplinary layoff for continuing tardiness and a "final" letter which puts the employee on notice that she will not receive any disciplinary time off for unavailability for illness; but should her record of unavailability for illness continue, that discharge would be appropriate. ("Final" letter is attached.)

The Committee further agreed that the grievant's record of availability will be reviewed after a period of one year from the date of the "final" letter. If, during such review, the grievant's attendance record evidences noticeable improvement, as measured against the background which preceded the "final" letter, the applicability of the "final" warning will be cancelled. Further, during such review, the requirement to provide evidence for instances of illness will be cancelled, if appropriate.

This case is considered closed on the basis of the above, and should be so noted by the Local Investigating Committee.


L. V. BROWN, Chairman
Review Committee


R. W. STALCUP, Secretary
Review Committee

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