

REVIEW COMMITTEE**PG and E**

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

CASE CLOSED
LOGGED AND FILED

RECEIVED OCT 9 1984

General Construction Grievance No. 3-1215-83-58
P-RC 933

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

October 3, 1984

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

MR. MIKE MC KINNEY, Chairman
General Construction
Joint Grievance Committee

Grievance Issue

Discharge of a Helper for failure to inform Company of a medical condition which commenced prior to his hire.

Facts of the Case

The grievant was hired by the Tower Section of Line Construction on May 31, 1983.

On Friday, July 8, 1983, a co-worker dropped a piece of steel; it bounced and struck the grievant on the left leg.

On Saturday, July 9, the grievant went to a hospital near his home and had the injured leg x-rayed.

On Monday, July 11, the grievant telephoned his job and stated that he was going to see his personal physician that day, and that he would not be at work.

The grievant did not call or report to the job on July 12.

On July 13, the grievant reported to the job and was taken to a Company panel physician for examination and x-rays of the injured leg. After reviewing the x-rays, the physician informed the Company that the grievant had had surgery on his left ankle prior to the date of his hire. A subsequent review of the pre-employment Medical History Form the grievant completed in April 1983 revealed that the corrective surgery was not reflected on the form. As a result, the grievant was discharged "due to incomplete information on medical portion of employment application."

The grievant told the Local Investigating Committee that he did not remember why he failed to disclose information about his ankle condition; that both his right and left ankles had undergone reconstructive surgery to strengthen ligaments; that the ankles were operated on in the summers of 1977 and 1978; that he was still able to play high school football after the surgery had been performed; that he did not feel the questions asked on the Medical History Form were relevant to his ankle condition; that he had only been disabled from walking for a short time after the operations, and had used crutches for only three weeks; that he did not have any trouble performing his job duties; that he had verification from his personal physician concerning his ankles' stability.

Discussion

The Company noted that the pre-employment Medical History Form is sent, along with the prospective employee, to the panel physician who performs the pre-employment physical examination. The physician uses the information on the Medical History Form to direct his attention to ailments or conditions, such as the grievant's ankles, that might not otherwise be apparent during a routine examination. The Company stated further that numerous questions on the Medical History Form afforded the grievant ample opportunity to disclose information about the operations on his ankles; that although none of these questions specifically asked if he had had corrective surgery on his ankle ligaments, several of them asked whether he had had problems with or injuries to his bones, joints, knees, etc. The Company opined that a reasonable person would recognize that a Company requesting an applicant to complete such a form obviously is interested in knowing about operations such as those performed on the grievant in 1977 and 1978. The Company stated further that had supervision known the full details of the grievant's medical history, he would not have been hired in the first place; therefore, his discharge was just and proper.

The Union opined that the grievant genuinely did not feel that he had a physical limitation; that he answered all of the questions on the Medical History Form precisely as they were written and, therefore, did not falsify his answers; that he had no difficulty in performing the physical aspects of the work assigned to him; that if the Company was concerned about his physical ability to perform the work, it should have sent him to a medical specialist before proceeding with any action.

Decision

The Pre-Review Committee has agreed that the grievant probably would not have been hired in the Tower Section if his ankle operations were known to the Company prior to his hire. Therefore, the Committee has concluded that his termination was justified.

October 3, 1984

However, the Committee notes that the comment "not eligible for rehire in this classification" bars him from being rehired into any Helper job or position, even though there may be Helper's duties outside of the G.C. Tower Section which the grievant could perform without aggravating his ankles. In the view of the Committee, such a rehire prohibition is improper in this case. Therefore, the Committee has agreed that the subject note on the Payroll Change form will be revised to read "not eligible for rehire in the Tower Section of Line Construction Department."

Finally, the Union noted that a post-termination memorandum on the grievant's performance was prepared by his supervision. The Union opined that the memorandum (dated July 20, 1983) is improper and asked that it be removed from all records and destroyed. Company agreed to Union's request.

Case closed on this basis.



D. J. BERGMAN, Chairman
Review Committee



R. W. STALCUP, Secretary
Review Committee

MAShort(1123):sla