

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

PACIFIC GAS AND ELECTRIC COMPANY  
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(415) 781-4211, EXTENSION 1125

**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

**CASE CLOSED  
LOGGED AND FILED**

AUG 29 1985

RECEIVED AUG 29 1985

D.J. BERGMAN, CHAIRMAN

- DECISION  
 LETTER DECISION  
 PRE-REVIEW REFERRAL

General Construction Grievance 3-1355-84-87  
P-RC 1012

August 16, 1985

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

MR. BARRY HUMPHREY, Chairman  
General Construction  
Joint Grievance Committee

Subject of Grievance

Failure to consider employee to have been transferred.

Facts of the Case

The grievance is a Welder who was transferred to Moss Landing Power Plant on August 8, 1983.

On August 10, 1984, grievant's point of assembly was transferred from one trailer at Moss Landing to another trailer within the same parking lot at Moss Landing. At the same time, he began reporting to another Foreman. The distance between these trailers was measured to be approximately 370 feet.

The grievant told the Local Investigating Committee that, when he worked for the first Foreman, he parked his car near that Foreman's trailer. However, he said he now parks his car near the second Foreman's trailer. The distance between these parking areas is also about 370 feet.

The Local Investigating Committee established that the two Foremen each conduct their own tailboard meetings independent of each other. Each Foreman also has a different payroll accounting number. When Division work is assigned to General Construction, substation work is performed by one of the Foremen, and power plant maintenance work is assigned to the other.

Discussion

The Company stated that there is a common parking area which is designated for employees who report at the two sites. This parking area is situated between the two sites, approximately 200 feet from the grievant's former reporting site and 170 feet from his current reporting site. The grievant's job headquarters point-of-assembly was not changed from Moss Landing Power Plant; therefore, he was not "transferred" pursuant to Section 301.1 of the Agreement, and consequently his per diem expense status properly remained unchanged.

August 16, 1985

The Union stated that the movement of an employee from one Foreman to another is a transfer and should be treated as such for tax purposes regarding per diem payments. Union cited several examples of employees transferred very short distances who were considered to have been transferred under Section 301 and, accordingly, were not taxed on per diem for the following year.

Company opined that Union's depiction of a 370 foot move from one part of a parking lot to another was not a transfer. Further, Company stated that it does not have the authority under the IRS Tax Code to artificially exempt an employee's per diem from income tax on this or any other basis.

The Committee also reviewed IRS Tax Code regulations and discussed the Company's application of those regulations to per diem.

#### Decision

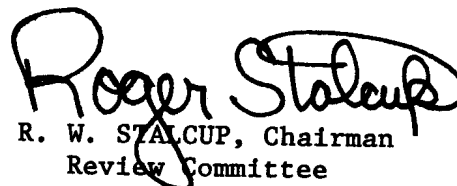
After reviewing the facts of the case and the Tax Code regulations concerning per diem payments, the Committee agrees that this change in reporting location was not enough to justify exemption from withholding under IRS regulations. Company's application of IRS regulations was appropriate in this case.

Committee also discussed grievability of this issue. Company's position is that amount of per diem payment is grievable, but not Company's application of IRS regulations.

This case is settled without adjustment and without prejudice to parties' positions regarding grievability. Such closure should be so noted by the Joint Grievance Committee.



D. J. BERGMAN, Chairman  
Review Committee



R. W. STALCUP, Chairman  
Review Committee

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