



REVIEW COMMITTEE

7.1 -Just cause for discharge. Meter Reader involved in altercation with third party.

IBEW



PACIFIC GAS AND ELECTRIC COMPANY
215 MARKET STREET, ROOM 916
SAN FRANCISCO, CALIFORNIA 94106
(415) 973-1125

D.J. BERGMAN, CHAIRMAN

- ☐ DECISION
- ☐ LETTER DECISION
- ☐ PRE-REVIEW REFERRAL

**CASE CLOSED
LOGGED AND FILED**

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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

Kern Division Grievance No. SJ-KERN-72-25-90-66-11
P-RC 1477

April 10, 1991

BILL MATTOX, Company Member
Kern Division
Local Investigating Committee

MIKE DEL RIO, Union Member
Kern Division
Local Investigating Committee

Subject of the Grievance

This case concerns the discharge of a Meter Reader for an altercation with a customer.

Facts of the Case

On July 10, 1990, the grievant was driving a Company vehicle on his way to obtain a cold drink for lunch and attempted to pass a motorcyclist. From here the stories of what happened differ. According to the motorcyclist, the grievant tried to pass in his lane while there was on-coming traffic in the opposite lane. The motorcyclist yelled "idiot" at the grievant who then tried to cut him off. The grievant then followed the motorcyclist through three turns while tailgating, then drove in front of the motorcyclist cutting him off at a stop sign. After stopping, the grievant got out of the Company vehicle and threatened the motorcyclist, shaking his finger in the motorcyclist's face. The motorcyclist's ten year old son was riding on the back of the motorcycle throughout this episode.

According to the grievant, the motorcycle was driving slowly on the right hand side of the road. The grievant assumed the motorcycle was preparing to stop so he decided to pass him. While passing, the motorcycle moved back into traffic and the grievant pulled back in behind. After proceeding a short distance, the motorcycle made a right turn and the driver gestured in an obscene way while yelling obscenities. The grievant admittedly became mad and followed the motorcycle through a few turns until he saw it stopped behind traffic at a stop sign. The grievant pulled up behind the motorcycle, got out, and told the driver not to yell or gesture at him. The motorcyclist indicated that he was going to turn the grievant in to which the grievant responded "go ahead," and drove away.

April 10, 1991

Two witnesses observed portions of this incident. The first was walking to his car parked at the curb when he reported seeing a PG&E vehicle no more than two feet from the rear of a motorcycle. The driver of the PG&E vehicle attempted to pass the motorcycle but failing to do so attempted to swerve into the motorcycle. The motorcycle accelerated and turned right. The witness followed in his car, arriving in time to see the two drivers engaged in a verbal confrontation.

The second witness was a PG&E Serviceman who happened upon the intersection where the argument took place. He reported that the grievant was out of his vehicle pointing his finger at the motorcycle driver's face and yelling. The grievant started to walk away, then turned and pointed his finger again. The motorcyclist drove around the PG&E vehicle and pointed his finger back while yelling something.

Discussion

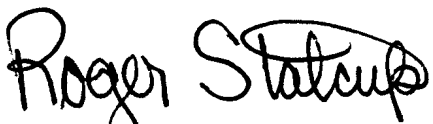
The Committee's first task in this case was to resolve the conflict between the grievant and motorcyclist's stories. The grievant, while admitting he became angered at the other driver, following and confronting him, paints a rather innocent picture of the incident. However, the two impartial witnesses support the motorcyclist's version. The first witness confirms that the grievant was tailgating and swerved toward the motorcycle. An act which the witness viewed as severe enough to warrant following and later reporting to the Company. The second witness confirms that the grievant blocked the path of the motorcycle and left the vehicle to engage in a verbal confrontation. In the Committee's view, the witness reports clearly damage the grievant's credibility.

The second issue the Committee wrestled with is the level of discipline. The grievant was just shy of ten years of service at the time of this incident. He had no active formal discipline but had two active counselings in the conduct category and one active in attendance. The Committee noted that in and of itself, this incident may not be severe enough to warrant discharge. However, the grievant was in a beginning level job so demotion was not an option and even though there is no contractual obligation to do so, a search was conducted to ascertain if there were any beginning level vacancies within the Division for which the grievant could have been considered. There were none. As a result, the Committee agreed that the discharge was for just and sufficient cause.

Settlement

This case is closed without adjustment and such closure should be noted by the Local Investigating Committee.


DAVID J. BERGMAN, Chairman
Review Committee


ROGER W. STALCUP, Secretary
Review Committee

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