



## REVIEW COMMITTEE

**IBEW**



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R.W. STALCUP, SECRETARY

MARGARET A. SHORT, CHAIRMAN

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

San Jose Grievance No. SJO-95-31  
Fact Finding Committee No. 5816-94-265  
Pre-Review Committee File No. 2003

San Luis Obispo Grievance No. SLO-95-33  
Fact Finding Committee No. 6173-95-190

YVONNE WONG  
KAREN L. BENTLEY  
Company Member  
Local Investigating Company

KATHY MAAS  
MICHAEL HAENTJENS  
Union Member  
Local Investigating Company

At issue in San Jose Division Grievance SJO-95-31 is the replacement of a hard disk on a Compaq Proliant file server. The work was performed by an exempt supervisor at 655 Lenzen St., San Jose. The file server was to be placed in service in Fremont. The Computer and Network Operations Director stated that Company has two types of file servers: Compaq Proliant and System Pro; that changing out the hard drive in the Compaq Proliant takes 5-10 minutes while the same work on the System Pro takes 30-60 minutes.

The C&NO Director stated that historically, work on file servers has been performed by management employees and there is no precedent indicating the work should be assigned to a bargaining unit classification. Company maintained that work on software required discretionary work and belongs to management. Company further stated that the issue of file server computers that serve multiple users has not been specifically addressed since this is a new technology; that all specific hardware that has been assigned to bargaining unit classifications has related to personal computers.

Union stated it believes that hardware, whether on a personal computer or a file server computer is the same and belongs to the bargaining unit. Union opined that the hardware of a file server computer is the same as a personal computer and that the only difference between the two is the function each performs.

At issue in San Luis Obispo Division Grievance SLO-95-33 is repair work on banyon file servers by non-bargaining unit Analyst. In this case, a Local Support Analyst changed a back-up drive on a banyon server at Morro Bay Power Plant. The Analyst stated that hardware replacements on servers is routinely done by management employees. The local C&NO Operations Supervisor testified that Support Analysts monitor network servers and change out hardware when needed; that servers link personal computers providing service to multiple users whereas personal computers provide service to one user.

Union's position in this grievance is virtually identical to that taken by the Union in the San Jose Division grievance cited above.

Discussion:

The Committee noted that in Pre-Review Committee Decision No. 1471, the specific work at issue in these grievances had been addressed, and the Committee had determined that a network file server is a personal computer and that the language in Review Committee Case No. 1678 is controlling with respect to maintenance and repair. In the cases at hand, it is clear that no attempt was made to utilize a bargaining unit employee in a technical classification.

RC 1678 states that replacement of interface cards by *users* where voluntary and where no assistance or training is required is a *de minimis* assignment pursuant to Section 7.2. It is clear that in both of these cases that the non-bargaining unit employee who performed the hardware replacements were not the "user" of that piece of equipment.

The committee also discussed the fact that there are file servers that are much larger and more complex than the types at issue in this and prior cases. These larger file servers connect Local Area Networks and are sometimes referred to as HUBS. This decision and the earlier referenced decisions do not address jurisdiction of work on these larger servers, although the union maintains the same position that maintenance and repair would be bargaining unit work.

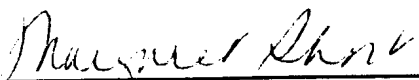
Decision:

The Pre-Review Committee is in agreement that in both cases cited above, non-bargaining unit employees improperly performed hardware replacements on file servers. In neither case was the person who performed the work the *user* of the piece of equipment and, therefore, even though the work can be completed in a limited time, it does not fall within the boundaries of work that can be performed as *de minimis* under the provisions of Section 7.2(c)(3) of the Agreement.

The Committee agrees that Company will cease and desist assigning non-bargaining unit employees to perform work of this nature; that in the future, bargaining unit technical classifications shall be assigned such work, if they are available within a reasonable period of time to do the work. What is reasonable will be determined based on the nature of the problem and the criticality of resolving it. However, such determination would be subject to the grievance procedure if the work is performed by a non-bargaining unit person pursuant to Subsection 7.2(c) (1 or 2).

Finally, this jurisdictional issue has been raised in the grievance procedure numerous times yet there continue to be violations. If the Company believes there are business based reasons which necessitate a change in how this work is to be assigned and if further, the work is evolving beyond the skills and ability of the bargaining unit, then the appropriate forum to address those concerns is through the bargaining process. There is currently a CNO labor management committee where these matters should be addressed.

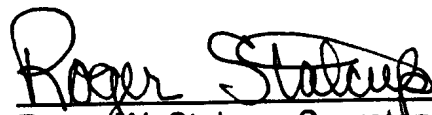
On the basis of the above, these cases are closed.



Margaret A. Short, Chairman  
Review Committee

4/25/96

Date



Roger W. Stalcup, Secretary  
Review Committee

4/25/96

Date