



# REVIEW COMMITTEE



## IBEW

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INTERNATIONAL BROTHERHOOD OF  
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R.W. STALCUP, SECRETARY

RECEIVED  
DEC. 17, 1998  
CASE CLOSED  
FILED & LOGGED

MARGARET A. SHORT, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

East Bay Division Grievance No. CON-98-15  
Fact Finding No. 6725-98-100  
Pre-Review Committee No. 2185

KAREN SAVELICH  
Company Member  
Local Investigating Committee

LULA WASHINGTON  
Union Member  
Local Investigating Committee

### Subject of the Grievance

This case concerns an alleged bypass on a job award to Sr. Service Representative I, Berkeley.

### Facts of the Case

The grievant held the position Sr. Service Representative I, Berkeley, from January 10, 1994 until December 24, 1997 when he was placed on Long Term Disability. The grievant was off work continuously from June 13, 1997, first on sick leave until October 14, 1997 and then on leave of absence. He completed the application for LTD on October 29, 1997. By letter dated January 21, 1998 he was informed of his approval for LTD. In addition, the grievant was informed by telephone by his supervisor of the approval for LTD. Company was also informed by copy of the January 21, letter. It was received by Company on February 2, 1998. Upon receipt of the approval letter, the supervisor began the process to fill the Sr. Service Rep I position on a regular basis.

The Job Vacancy Requisition was prepared on February 9, 1998 and was routed through the approval process and finally to the Centralized Job Bidding Team which established the control date as February 25, 1998. The vacancy was filled February 26, 1998.

On February 13, 1998 the supervisor received a letter from the grievant's treating physician which indicated the grievant, "is very close to being completely fit and ready to resume all his previous, full-time, job responsibilities, ...that he'd need about a month to finish his preparations to return to work, and that Monday, March 9<sup>th</sup> would be his return date."

The grievant did not have a bid on file for the Sr. Service Rep. I position. He later submitted one on April 1, 1998.

Discussion

The parties reviewed the language of Subsection 18.1(d) of the Clerical Agreement. It states:

"A vacancy created by an employee's absence on 'leave' or by reason of industrial disability shall be deemed to be a temporary vacancy."

As a temporary vacancy, Company can only fill on a temporary basis. However, once an incumbent is placed on LTD, the vacancy is no longer temporary and may be filled on a regular basis. It is clear from the facts of this case that the process to fill the vacancy began as soon as there was notice of the grievant's being approved for LTD.

In the packet of material received by the grievant was a booklet, "Facts About Your Benefits While on Long Term Disability". In the table of contents is a section on Returning to Work. That section states:

"Once you have been placed on LTD, you are not guaranteed your former or an equivalent job classification or work location should your disability end or change sufficiently to allow you to return to work."

"If you are a bargaining unit employee, you should send in prebid and transfer applications for all positions and location in which you are interested. You may also have accelerated rights to return to your former job classification and location. However, to use those rights, you must send in your prebid and transfer applications and check the box to indicate that you have accelerated rights to that position."

Employees who are on LTD will have their bids considered and be extended an offer if they are the senior qualified bidder and there is current medical information on file with the Company that indicates the employee could return to work and perform the duties of the vacancy within two weeks from the first Monday following the job award.

In addition, Section 7.15 of the Clerical Agreement requires agreement between Company and Union to return an employee to work from LTD.

The PRC noted this was an unusual set of circumstances since most employees who go onto LTD remain on inactive status for extended periods. In this instance, the employee was medically cleared to return very shortly after being approved for LTD such that there was the possibility that he could have been awarded the position he vacated if he had submitted a timely bid, that is, one postmarked no later than February 17, 1998 (eight days prior to the control date).

DECISION

Based on the facts of this case, the PRC agrees that a contractual violation did not occur and that the job award was appropriate. This case is closed without adjustment.

Margaret Short  
Margaret A. Short, Chairman  
Review Committee

12/17/98  
Date

Roger Stalcup  
Roger W. Stalcup, Secretary  
Review Committee

12/17/98  
Date