REVIEW COMMITTEE

PACIFIC GAS AND ELECTRIC COMPANY
2850 SHADELANDS DRIVE, SUITE 100
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MARGARET A. SHORT, CHAIRMAN

DECISION
LETTER DECISION
PRE-REVIEW REFERRAL

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SEPT. 6, 2001

CASE CLOSED
FILED & LOGGED

IBEW

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 4790
WALNUT CREEK, CALIFORNIA 94596
(925) 933-6060
BOB CHOATE, SECRETARY

Pre-Review Committee No. 11545

Ginny Ramsey
Company Member
Local Investigating Committee

Hunter Stern
Union Member
Local Investigating Committee

Subject of the Grievance
Union alleged the Company is violating 308.12(b), on a continuing basis, by scheduling employees to work prearranged overtime when the employee is scheduled to be off on vacation.

Facts of the Case
On February 11, 2000 (Friday), the supervisor became aware that a Street Fitter would be needed to perform plastic fusion work on February 12th and 13th. The supervisor reviewed his "Overtime Interest List" and noted that two Street Fitters had signed the list, the grievant and the employee who worked the overtime. The supervisor mistakenly believed that only one of the two was certified to perform plastic fusion and offered the pre-arranged overtime (POT) assignment to the employee he believed was qualified.

Prior to the overtime assignment, the Street Fitter who performed the POT assignment on February 12th & 13th had requested and was granted vacation for February 14th & 15th. When the supervisor offered the POT assignment to the Street Fitter, he failed to inform the supervisor that he was scheduled for vacation on the following Monday and Tuesday. Subsection 308.12(b) states in part that...."An employee who is scheduled to be off on vacation shall not be scheduled for work under this Section for the period between the end of the employee's last regular day of work preceding the employee's vacation and the start of the employee's first regular day of work following the vacation." 308.12(a) states "Prearranged overtime work shall be distributed among employees in the same classification and on the same job assignment as equally as is practicable."

The supervisor in this case was inexperienced and unaware of the contract language. Once the issue was brought to his attention, he discontinued the practice and worked with his peers and the superintendent in the Area to develop a procedure to ensure this did not happen again. They agreed that posting a list for employees to express interest is optional and if used, it would state the following in the heading, "This sheet is intended to be used only to offer employees an opportunity to indicate interest in working pre-arranged (POT)

assignments. Adding your name to this list is no way requires the Company to assign POT work to any particular employee. Per Section 308.12 of the Union contract, employees scheduled to be on vacation or off due to illness prior to or following, the overtime workday cannot be scheduled. Employees are responsible for notifying their supervisor at the time the POT is offered, if they are ineligible for POT assignments on the basis of this contract section. Supervisors agreed to meet with their employees and review the use of the list as well as their contractual eligibility.

Discussion

Union expressed its concern that there have been continuing problems enforcing 308.12(b) and that there should be a consequence, in the form of bypass pay, paid to the grievant for the Company's continual violation of this Section. The Union recognizes that the employee made an innocent mistake in requesting and accepting the overtime. And, the Union commends the Company for taking action to resolve this issue by implementing procedures to prevent this from occurring in the future. However, the Union objects to the Company's inclusion of the following statement on the overtime "Interest List", "Employees are responsible for notifying their supervisor when they are ineligible for POT based on 308.12(b)." It is management's responsibility to have systems and procedures in place to ensure that only the employees entitled to the OT assignment are permitted to work, not the employee's responsibility to tell the Company.

Company maintains that there is no bypass provision in Title 308 and that there are no other incidents cited in the record that indicate that the Company has continually violated 308.12(b). As soon as the Company was made aware of the issue in this case, procedures were developed and implemented to prevent similar situations from occurring and meetings with the employees were held to ensure their understanding as well.

In PRC 230, a Line Subforeman who was off due to illness on Friday and was called out for EOT on Sunday. When called to work the emergency, the Line Subforeman failed to advise the on-call supervisor that he went home ill that Friday. The decision in PRC 230 underscores the shared responsibility between the Management of this Company and the employees. That is, employees who are inadvertently called for overtime must notify the supervisor of their sick leave status. Although the specific facts in PRC 230 are not identical to those in this case, vacation and sick leave are treated the same for unavailability for overtime. The contractual language in 308.12(b) and 208.16(b) are identical. The company therefore believes that the disclaimer language the Union objected to in the newly implemented procedures are consistent with this shared responsibility, that is "Employees are responsible for notifying their supervisor at the time the POT is offered, if they are ineligible for POT assignments on the basis of this contract section" [308.12]. Lastly, there is no negotiated penalty associated with an employee who fails to notify his supervisor that s/he is unavailable for overtime when the employee performs the overtime work.

Union noted that the joint statement of facts indicates that arrangements for vacation were made with the supervisor, presumably the same supervisor who made the overtime assignment. It is noted by Company that the supervisor is not new or inexperienced. He has been an exempt employee since 1984, held several supervisory positions, and held his current position since 1997. Further, plastic fusion work is pretty basic in the gas lines of progression. The grievant has actually been a Street Fitter two years longer than the employee who worked the overtime.

Decision

The PRC is in agreement that the contract is clear in that the employee scheduled for vacation should not have been allowed to work unless there was no other alternative. The PRC also agrees that employees share in the responsibility for knowing the provisions of the labor agreement and for informing their supervisors when they are contractually not entitled to an overtime assignment. In this case, the supervisor made an assumption without checking the qualifications of the grievant. Based on the shared contribution for this error in overtime assignment and given that the calendar year in which this grievance arose has passed, in an effort to close this case, the PRC agrees to an equity settlement to pay the grievant one half the overtime hours worked on February 12 and 13th, 2000.

This case is closed on the basis of the foregoing adjustment and without prejudice.

Margaret A. Short, Chairman
Review Committee

8/24/01
Date

Salim A. Tamimi
Sam Tamimi, Secretary
Review Committee

8-24-01
Date