

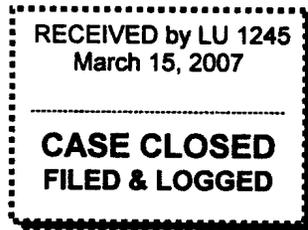
7.1: A long-service Lineman who temporarily working as a Work and Resource Coordinator was discharged for being involved in an avoidable hit and run accident in a Company vehicle. The PD is for just and sufficient cause and closed without adjustment.



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MARGARET A. SHORT, CHAIRMAN
DECISION
LETTER DECISION
PRE-REVIEW REFERRAL

REVIEW COMMITTEE



INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 2547
VACAVILLE, CALIFORNIA 95696
(707) 452-2700
BOB CHOATE, SECRETARY

Pre-Review Committee No. 16515 OM&C – Electric T&D – Stockton

Deborah Sargent
Company Member
Local Investigating Committee

Roger Stalcup
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the discharge of a long-service Lineman temporality working as a Work and Resource Coordinator for being involved in an avoidable hit and run accident in a Company vehicle; other inappropriate actions in conjunction with the accident; and the serious consequences of the accident. The grievant had no active discipline when discharged.

Facts of the Case

On Wednesday, February 1, 2006 the grievant left work at 3:45 p.m. and drove his assigned (Company) rental truck to his home in Salida, approximately 25 miles away. The grievant's practice with the Company's knowledge for the 2 ½ years prior to the accident was to drive his personal vehicle to the Stockton yard on Monday; leave it all week; drive it home on Friday or Saturday; and use the rental truck to commute each day during the week. The grievant's understanding from a prior supervisor was that some personal use of the rental was allowed. For example, it was permissible for him to pick up or drop off his children but not to abuse it.

At about 7:15 p.m. on February 1, the grievant drove the rental to Home Depot in Manteca and then to Jack-in-the-Box for dinner. At approximately, 10:15 the grievant lost control of the vehicle as he was attempting to place his ice tea in the cup holder; slid into a power pole shearing it in two; hit and uprooted an almond tree on private property. The grievant then worked his damaged vehicle away from the accident scene and drove home as he was uninjured and the vehicle was drivable. According to the grievant upon arriving home, he left a cell phone message for one of the Distribution Supervisor's (not his own) stating, "I screwed up and need you to give me a call."

That Supervisor returned his call the next morning at about 6:15 a.m. The grievant told the Supervisor about the accident the night before. The grievant stated the Supervisor told him to report the incident as if it happened on the way to work that morning (Feb. 2). The grievant said he couldn't because the accident was headed in the wrong direction to be on the way to work. According to the

grievant the Supervisor told him to say he'd forgotten his cell phone or something and had to turn around to go home. The grievant further stated the Supervisor also advised him to notify the police and the grievant's supervisor.

The grievant said he called the Stanislaus County Sheriff's Department at 7:35 a.m., as Salida is not a city. He left a message on the answering system with his name, address, and phone number. He never received a call back.

The grievant then called another Work and Resource Planner to get the Supervisor's number. He then called his Supervisor who told him to report to the yard right away. He arrived about 9:30 a.m. and told the Supervisor the accident happened that morning. The Supervisor gave the grievant an Employee Motor Vehicle Incident Report form to complete. He completed the form indicating the date of the accident as February 2 at 6:15 a.m. while heading north on Hammett Road in Salida. He wrote that he "reached over to passenger seat to pick up paperwork, veered off road and hit tree."

The truck damage was \$21,769.74; Modesto Irrigation District pole replacement was \$5,000.00; and damage to the almond tree was \$1,000.00.

On February 8, the Area 5 Director notified Corporate Security that the Safety Program Coordinator determined the accident did not occur as reported by the grievant; that the date, time and location of the accident had been falsely reported. Corporate Security interviewed the grievant on February 14 and again on March 2. In the February 14 interview, the grievant told the Security Representative the accident actually occurred on Kiernan Avenue in Modesto in the evening of February 1. In neither interview, did the grievant report the conversation with the first Supervisor. This allegation was first made at the LIC in the grievance procedure. The grievant's explanation; he was only going to involve that Supervisor if he (grievant) was fired.

The Supervisor (first one) adamantly denied the grievant told him the accident happened the night before. The Supervisor indicated his conversation with the grievant was limited to asking if he and the truck were okay, and advising the grievant to report it to the Sheriff and his Supervisor.

Corporate Security contacted the Stanislaus County Sheriff's Department and the California Highway Patrol. The Sheriff's Department had no record of a call from the grievant, but the CHP received a call at 10:25 on February 1, 2006 from a woman who lives next door to the accident scene. She reported the collision and that the involved vehicle fled the scene. The CHP opened a hit-and-run collision investigation, a misdemeanor. Subsequently, the CHP was notified by the Company that the grievant admitted that he was the driver of the "hit and run" accident. Later the grievant was contacted at his residence by the CHP to complete their investigation. The investigation notes reflect that the grievant indicated to the CHP that the grievant contacted the property owner a couple days after the accident. The property owner did not acknowledge being contacted by the grievant.

Corporate Security also interviewed the prior Supervisor about "personal use" of Company vehicles (rentals). This Supervisor indicated he'd advised the work group, including the grievant, of the restrictions outlined in Utility Standard Practice (USP) 12, which allows for personal use "incidental to normal company travel and was not an authorization for unlimited personal use of the vehicle. "

Discussion

The grievant said that about 7:15 p.m., he went to Home Depot in Manteca, which is about 11 miles and 15 minutes north from his home. However, the accident occurred three hours later at 10:15 p.m. in Modesto, which is eight miles and 10 minutes south of his home. Salida is between Manteca and Modesto, which means the grievant, bypassed his home to end up in Modesto. The grievant was not

working during this time, so this type of personal usage of a Company vehicle is not compliant with USP 12 or the instructions given by his former supervisor.

The grievant compounded the problem by failing to remain at the accident scene, not immediately reporting it to law enforcement and his supervisor, and worst of all, falsifying the information and Company documents. Additionally, he gave false statements during the CHP interview about contacting the property owner.

As a defense the grievant says a supervisor told me to do it. Assuming what the grievant said is true, does not mean he should have followed the advice nor does it mean that he should be excused from the consequence of misconduct. It would mean that the person giving the inappropriate advice should also be disciplined. Whether the supervisor conspired with the grievant or not, the grievant violated Company policy and is accountable for his actions. The record shows that the grievant deliberately falsified Company documents and violated the law to cover up his accident.

Decision

The Pre-Review Committee agrees the discharge was for just and sufficient cause. This case is closed without adjustment.

Margaret Short
Margaret A. Short, Chairman
Review Committee
2/14/07
Date

Bob Choate
Bob Choate, Secretary
Review Committee
2/14/07
Date