



## REVIEW COMMITTEE

IBEW



PACIFIC GAS AND ELECTRIC COMPANY  
LABOR RELATIONS DEPARTMENT  
375 N. WIGET LANE, SUITE 130  
WALNUT CREEK, CA 94598  
(530) 246-6430

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, AFL-CIO  
LOCAL UNION 1245, I.B.E.W.  
P.O. BOX 2547  
VACAVILLE, CALIFORNIA 94696  
(707) 452-2700

CLAIRE IANDOLI, CHAIRPERSON

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

KIT STICE, SECRETARY

### Pre-Review Committee Number 23923 Gas Operations – Field Services – Fremont

Deborah Harper  
Company Member  
Local Investigating Committee

Lou Mennel  
Union Member  
Local Investigating Committee

#### Subject of the Grievance

This case concerns the termination of a Gas Service Representative who violated the terms of his Company-approved medical leave by engaging in an outside business; exceeding his medical restrictions and omitting material information regarding his medical status.

#### Facts of the Case

Grievant injured his left wrist in a non-industrial accident in June 2015. Post-accident, Grievant was on an approved Company Medical Leave which required that he: 1) not accept other employment or engage in business while on leave; 2) not engage in activities that contradict the medical reasons for being out on leave or his ability to return to work and 3) provide updates to his Supervisor of any change to his leave status.

In August 2016, Grievant saw his doctor who advised he could “advanc[e] activities as tolerated.” Grievant did not advise the Company of this change in status and did not receive a release from his doctor of the 1 pound lifting restriction that was in place for the duration of the leave.

Company became aware through Facebook postings, that Grievant was working at a brewery and performing duties that exceeded his medical restrictions. A Corporate Security investigation revealed that Grievant was pulling a beer tap, holding 2 pint mug glasses from the bottom, lifting and pulling a large garden hose, holding an iPad—all with his left hand and wrist. All these duties exceeded his 1 pound restriction not to lift or carry.

Grievant was terminated in November 2016 following the Corporate Security investigation.

Discussion

The Company relied upon Review Committee Decision 15015, which upheld the discharge of a Service Representative for making "false, misleading and fraudulent material misrepresentations regarding [her] physical activities and abilities" while receiving worker's compensation benefits from the Company. This case is applicable here.

Company stated the Grievant's actions violated the Company's Leave of Absence policy by engaging in business while on leave; engaging in activities that contradicted his medical reasons for being out on leave (lifting, carrying and pulling) and for failing to contact his Supervisor about his change in status.

The Union opined that Grievant did not receive a paycheck while he worked at the brewery; he did not fail to notify his Supervisor of a change in status because his doctor did not remove the 1 pound limitation during his August 2016 office visit and he was following his doctor's instructions to increase activities as tolerated.

Decision

The Committee discussed this case at length and agreed that Grievant violated the Company's Leave of Absence policy by engaging in business while on leave; engaging in activities that contradicted his medical reasons for being out on leave and by failing to alert his Supervisor of a change to his status. There was just and sufficient cause for Grievant's termination. This case is closed without adjustment.

Claire Ier      2/21/18  
Claire Iandoli, Chairperson      Date  
Review Committee

Kit Stice      2/21/18  
Kit Stice, Secretary      Date  
Review Committee