

REVIEW COMMITTEE DECISION

R. C. File Number 143

Coast Valleys Division Grievance No. 56

Subject of Grievance:

On October 5, 1956, the Division discharged Grant A. Ballentine, employed in the classification of Lineman at Paso Robles, California. His discharge was ordered because it was alleged that he refused to obey instructions during an emergency situation which occurred after regular work hours the previous day. During the course of the emergency job it was understood that Ballentine would climb a pole and replace a fuse with a fuse stick. After some altercation with the Sub-Foreman in charge of the crew, Ballentine removed his climbing tools and stated that he would not do the job. The Union and the aggrieved employee claim that no direct order was given and that the employee volunteered for the job but changed his mind. The Division contends that the equivalent of a direct order was given, that no volunteers were requested and that the employee refused to perform the duty expected of him. Following the Labor Agreement provisions the circumstances of the case were investigated by the Local Investigating Committee and referred to the Division Joint Grievance Committee without settlement. No agreement between Company and Union could be reached in the Joint Grievance Committee and the grievance was referred for review. The Union member of the Local Investigating Committee contended that Ballentine should be reinstated and paid for all time lost (10 weeks).

Statement and Decision:

In this case it is apparent that some understanding was reached with the aggrieved employee concerning the performance of the job in question, but there is lack of evidence denoting that a specific order was given or that the employee refused to obey. However, during the course of the supervisory planning which took place at the scene of the job, the facts indicate that Ballentine was aware of his responsibility and that he proceeded on the basis that he would perform the work required of him as a Lineman. It is further apparent that his sudden refusal to go on with the work disrupted the job and that under the existing emergency conditions the General Supervisor deemed it best to have the specific duty performed by another employee. The unfortunate circumstance is that a clear understanding was not reached at such time to the effect that Ballentine's refusal to carry out his duty amounted to insubordination, for which he would be disciplined.

In reaching a decision in this case the members of this Committee have taken under consideration the vagueness of the evidence with respect to proving a charge of insubordination, and for such reason believe that the penalty of discharge was beyond that justified by the particular circumstances. On the other hand, there is sufficient implication to determine that the employee's conduct should not be condoned without penalty. It is our decision, therefore, that Ballentine be offered reinstatement in the Division as of December 17, 1956, in his Lineman classification, and

that he be transferred to another District if possible. His record of employment at the time he is reinstated should be corrected to read as follows:

October 6 and 7 - regular days off

October 8 to 21, inclusive - vacation (10 work days included in termination check)

October 22 to November 25 - disciplinary lay-off without pay (25 work days)

November 26 to December 17, inclusive - leave of absence with pay (15 work days)

FOR UNION

Paul Devlin  
Russell Stone, Jr.  
L. L. Mitchell

By L. L. Mitchell

Date: Dec. 27, 1956

FOR COMPANY

E. F. Sibley  
C. L. Yager  
V. J. Thompson

By V. J. Thompson

Date: Dec. 20, 1956