

REVIEW COMMITTEE DECISION

Review Committee File No. 1037

East Bay Division L.I.C. Grievances Nos. 1-70-33 and 1-70-34

Statement of Fact

This case concerns two grievances. The first seeks the wages lost while the grievant was off on a disciplinary layoff from August 3 through August 7, 1970 arising out of acts at a meeting with his supervisor on August 3, 1970. The second grievance seeks reinstatement as a "Conditional Line Subforeman" under the terms of an August 12, 1969 agreement between Company and Union, which was made a part of the arbitrator's decision in Arbitration Case No. 31.

The Company's action in both instances stems from the same facts. Following a period of suspension, which is not involved here, the grievant had been reinstated as a "Conditional" Line Subforeman. Within a day or two of that he telephoned certain of his fellow workmen and a Field Line Foreman about the charges upon which the grievant had been arrested and suspended. In one instance, upon being informed by the employee's wife that the employee was not at home, the grievant parked in the vicinity of the employee's home.

The following Monday two of the employees, and the Field Line Foreman, complained to their supervisor about the calls and threats they felt were implied therein. In the first, the grievant impliedly threatened to expose an alleged instance of the employee's past misconduct on the job; in the second, the employee was genuinely concerned over leaving his wife alone; and in the third, the Field Line Foreman was threatened with a lawsuit. The supervisor was of the opinion that the telephone calls were detrimental to work relationships at the headquarters and for this reason called the grievant to his office to discuss the matter and to inform him that he was to cease this activity. At the meeting the grievant took the position that these were personal matters and refused to answer the inquiries as these were personal matters and violated his civil rights. Thereafter, the superintendent informed him that he was suspended. After reviewing the matter further, the Division set the disciplinary layoff at five work days and terminated his "Conditional" Line Subforeman status. He returned to work as a Lineman at the end of the five days.

Discussion

It is apparent, from the statements of the affected employees, that the initial intent of the grievant was to gain their support to absolve him from any implication with the charges surrounding his arrest and suspension from work. If the matter had stopped there, it is unlikely that these grievances would be before this Committee. The fact that it did not, however, requires a more searching examination of the totality of his conduct in the light of the unique work status the grievant occupied at the time; i.e., his placement as a "Conditional" Line Subforeman.

In the first place, the grievant's position with the Company, on his return from suspension, was at best a tenuous one. Sometime prior to this, the grievant's qualifications to hold a supervisory position were questioned and found lacking by Company. As a result, he was demoted from Line Subforeman (Temporary) to Lineman - a decision that was later sustained by Arbitrator Sam Kagel (Arbitration Case No. 31). The crux of the matter at that time was directed at the grievant's attitude and judgment and, in submitting the case to arbitration, the Company and Union proposed an alternative solution to the arbitrator, together with the usual "yes" or "no" findings that he might make.

It is that alternative that is directly involved here. In short, the alternative proposed that even though the arbitrator should uphold his demotion the Company would provide a comprehensive training program in an endeavor to qualify the grievant for a Line Subforeman position. By the terms of the alternative, promotion was guaranteed if the program was completed satisfactorily. In adopting the alternative, the arbitrator expressed the opinion that the grievant could qualify "provided he learn to follow orders." As to the proof expected, he noted that "(the grievant's) future performance will determine whether such training will have corrected his present deficiencies." Drawing this down then to the case here, as a result of the arbitration decision the grievant could not help but be aware that his actions were subject to close scrutiny that would be carefully evaluated against the standards to be expected of him to attain an unconditional Subforeman rating. Even further than this, the agreement under which he was placed in the "Conditional" Subforeman position was explicit that his failure to meet the standards would work a forfeiture of the conditional status.

The ultimate question then is whether the grievant's acts bore any relationship to his job, and, particularly, did they bear on the terms of his conditional appointment. It is the opinion of the Review Committee that the nature of the phone calls and his conduct at the meeting called by his supervisor bear directly on his employment with Company. In the first place, the testimony of those receiving the calls clearly evidences to the Committee that they comprised thinly veiled threats of job and personal reprisal. For this reason, the matter was a legitimate concern for the supervisor's inquiry and action and, further, the employee was obligated to respond in order to provide a means of setting the matter straight. His refusal to cooperate was insubordination for which discipline might be levied. Additionally, and again because of the restrictive conditions of the "Conditional" Line Subforeman agreement, that same conduct could be viewed against that to be expected for him to attain a regular appointment to Line Subforeman. To say the least, the telephone calls would reasonably be expected to be disruptive of the working relationships in the yard, and, obviously, his conduct at the meeting was out of phase with the arbitrator's admonition. In total then, his conduct following his return from the suspension was cause to terminate his "Conditional" Line Subforeman status. Even further than this, the events are a proper concern to be weighed against his right to promotion to Line Subforeman under the provisions of Title 205 of the Physical Labor Agreement.

Decision

For the foregoing reasons, the Review Committee decides as follows:

1. A three-day disciplinary layoff for the events of August 3, 1970 is appropriate under these facts, in addition to which the telephone calls are grounds to terminate the grievant's "Conditional" Subforeman's appointment.
2. The grievant's bids to Line Subforeman need not be considered under the provisions of Title 205 of the Physical Labor Agreement, as last amended, until at least September 1, 1971.

FOR UNION:

W. H. Burr
E. Sheldon
L. N. Foss

By

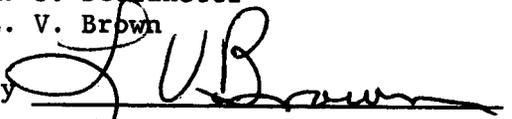


Date May 5, 1971

FOR COMPANY:

J. A. Fairchild
H. J. Stefanetti
L. V. Brown

By



Date May 5, 1971

International Brotherhood of
Electrical Workers
Local 1245

and

Pacific Gas & Electric Company

Review Case #831

East Bay Division Grievance #1-68-10

Arbitration Case #31

Issue: Does the grievant's job performance demonstrate that he may be expected to satisfactorily and safely perform more responsible assignments in his line of progression if promoted to a Line Subforeman?

Date of Opinion: February 26, 1970

BACKGROUND

Grievant was employed by the Company as a journeyman Lineman about ten years ago. After six years he was promoted to Troubleman and was later demoted back to Lineman. He continued to work as a Lineman until 1968 when he was assigned a crew and temporarily upgraded to Subforeman on a trial basis. Company terminated the trial basis after six weeks and grievant was returned to the line crews as a Lineman.

Union argued that grievant's performance during the trial period was satisfactory and he was entitled to promotion to Line Subforeman. Company argued that his performance was unsatisfactory during the trial period and that they bypassed him on that basis.

DECISION

Grievant shall be assigned as a conditional Line Subforeman subject to the following conditions:

1. Grievant to be given an opportunity to prepare and take the Arithmetic Computation Test. If he passes the test successfully, he is to be classified as a Conditional Line Subforeman.
2. Grievant is to be assigned to classes at the Basic Electricity School and the Basic Lineman School.
3. If all conditions are met, grievant will be classified as an unrestricted Line Subforeman one year after his appointment as a Conditional Line Subforeman.

BOARD OF ARBITRATION:

Sam Kagel, Chairman
John K. McNally, Union Member (Concur)
Peter R. Dutton, Union Member (Concur)
Lee R. Thomas, Company Member (Dissent)
Daryl G. Collins, Company Member (Dissent)

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