

REVIEW COMMITTEE DECISION

Review Committee File No. 1235
East Bay Division L.I.C. Grievance No. 1-73-4

Subject of the Grievance

This Decision involves the discharge of a Fieldman, effective January 16, 1973, for refusing a work order and directing abusive and debasive language toward his supervisor. The events occurred in the presence and hearing of other employees who, also, work under the supervision of that supervisor.

Discussion

At the outset, the Review Committee has carefully weighed the evidence in this case and finds that the decision to discharge the grievant was motivated solely by the gravity of the grievant's misconduct and was not influenced by racial overtones.

Although the record submitted to the Review Committee contained some inconsistent statements concerning what took place, in taking an overall view of those facts which are not in dispute the Review Committee finds that the grievant was guilty of serious demeaning on-the-job misconduct and, in addition, insubordination for refusing to perform a proper work assignment when ordered to do so. With regard to the latter, the Review Committee repeats the accepted rule that a work assignment must be carried out at the time and then grieved later if the employee believes that it contravenes the Labor Agreement. For these offenses, strong disciplinary action is warranted.

On the other hand, the record further evidences that in the past the grievant has been considered a satisfactory worker who, in the four years he has been employed, has an unblemished service record except for the conduct in question. Comparing this against the only incident at issue here, then, the Review Committee is of the opinion that discharge was too strong medicine in this case.

Decision

For the reasons set forth in the Discussion, the discharge is not sustained. It is instead the decision of the Review Committee that an appropriate remedy under these facts is to reinstate the grievant with seniority and retroactive pay, less 30 working days, from January 16, 1973 to May 7, 1973.

FOR UNION:

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

By *L. N. Foss*
Date 5-4-73

FOR COMPANY:

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

By *L. V. Brown*
Date 5-4-73

I, the undersigned, grievant herein, have read the foregoing Decision and understand that I am being reinstated to employment with Company with accrued seniority and retroactive pay, less 30 working days, from January 16, 1973 to May 7, 1973.

As a further condition of the reinstatement, I hereby release Company and Union from any and all claims, demands, actions or causes of action, known or unknown, before any court of law or Federal or State agency that may arise from or relate to my discharge from Company's employment on January 16, 1973, and I further agree to withdraw with prejudice any and all claims or charges based on my discharge and presently on file with any Federal or State agency.

Date 5-5-73

Ernest Johnson
Ernest Johnson