

REVIEW COMMITTEE

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REVIEW COMMITTEE DECISION

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

Review Committee File Nos. 1418-77-5 and 1419-77-6
Stockton Division Grievance Nos. 16-27-77-1 and 16-25-77-2

Statement of the Grievances

The combined cases concern the discharges of First Operators, Robert A. Cannam and Doyle A. Gilliam, for their part in the incidents that occurred on December 14 and 15, 1976, at Bellota Substation. The events that night caused destruction of Company property and a serious interruption of service.

Summary of Facts

At times pertinent here, grievant Gilliam was assigned to the third watch, starting at 2300 hours on Tuesday, December 14, 1976.

Grievant Cannam, who resided in Company housing located approximately 400 feet from the substation, was on his non-workdays. Earlier in the evening of December 14, Cannam had entertained his friends, Al Guffy and Leonard Cuthill, at the Company residence. The evening was spent dining, drinking and playing cards. Later, all three went to the substation to discuss a proposed fishing trip with Gilliam. It is not clear from the record as to whether Cannam or Gilliam was the moving party to the meeting at the substation that evening.

At approximately 1:00 AM on Wednesday, December 15, Robert Clark, First Operator, Tiger Creek Power House, phoned Gilliam. Clark spoke to Gilliam for about 5 minutes and then to Cannam for 30 minutes or longer. During the phone conversation, Cannam told Clark he had been drinking but Gilliam had not. Clark later described Cannam's speech as slurred.

At about the same time Cannam and Clark were talking on the phone, Cuthill was given some money by Gilliam and others to purchase some wine. He left the station in Guffy's car, returning some time prior to 2:00 AM. According to Gilliam, the wine was then consumed by all four participants in the substation building. At approximately 2:00 AM, Guffy left the station, picked up his family at Cannam's residence and drove to his own home.

At approximately 3:00 AM, a melee ensued during which Cuthill struck both grievants and went wildly down the front and back of the switchboard, manipulating switches and breaking relay and meter covers. Cuthill ultimately ran out of the building and collapsed on the driveway.

Cannam called the sheriff's office shortly after the melee. Cuthill was arrested by the San Joaquin Sheriff at approximately 3:40 AM on December 15, 1976. Gilliam and Cannam were suspended on December 17, 1976, and subsequently discharged on December 22, 1976.

An estimated \$1,500 in damages was done to the station switchboard and an electrical outage affecting a widespread area as a result of Cuthill's rampage.

Discussion

The Review Committee faces a contradiction in the testimony between the only two witnesses. Admittedly, neither presented a straightforward, consistent account of that evening's event. Between the two, however, the Review Committee is inclined to credit the testimony of Gilliam over that of Cannam as to the relevant sequence of events. While the reason for this may not be obvious from the few salient facts given above, it is important to note that the testimony of Gilliam further involves him in the serious event that occurred that night. This is to say that not only was he grossly negligent in allowing Cannam and his two non-employee friends to enter the substation but that for him to allow the situation between Cuthill and Cannam to lead to and result in the provocative altercation in and outside the substation is a serious admission of his further culpability in the final results; thus, lessening his chance for mitigation of the ultimate penalty of discharge. Faced with that adverse implication, the Committee is not in a position to discredit or ignore the overall testimony furnished by Gilliam to the Review Committee.

On the other hand, Cannam's account would relieve him of much of the responsibility for what occurred after the telephone conversation with Clark. In short, Gilliam has little to gain from his version while, arguably, Cannam's disputed testimony seeks his complete exoneration. Between the two, it is undisputed that Cannam was last in the substation, unconscious. Taking the testimony as a whole, it is more plausible to accept Gilliam's account that Cannam was there throughout. In this regard, it is also significant to note that Gilliam has been a journeyman operator for a considerable period of time and must be held to realize the responsibilities of substation operations, which includes security and safety of the substation. The record clearly indicates that Cannam willfully took non-employees who, beside himself, were under the influence of alcohol, into the substation. One of them, in Cannam's own opinion, was a mentally unstable person. Adding this to the Review Committee's conclusion that Cannam precipitated Cuthill's running amuck can only lead the Review Committee to the final conclusion that Cannam and Gilliam are, at the very least, equally guilty of serious and gross misconduct.

Conclusion

Grievant Gilliam, who it should be noted, is a long-service employee, with an otherwise acceptable work record, has subsequently retired and is, in any event, beyond the Review Committee's power to reinstate irrespective of the outcome of his grievance. For this reason, as to Gilliam, the grievance is moot.

Grievant Cannam's employment record is less complimentary. The record before the Review Committee establishes that Cannam's previous work record evidences other examples of rule violations, which in the overall, marked him as less than a satisfactory employee. Taking into account the entire record, which is set forth in pertinent part below and our conclusions as to the last incident above, the Review Committee concludes that Cannam's discharge was for just and proper cause. His grievance, therefore, is denied.

April 5, 1971 - Hired as a Second Operator, Central District, East Bay Division.

May 25, 1973 - Notice of wage garnishment, City and County of San Francisco.

June 4, 1973 - Letter of reprimand for improper vacation scheduling and lack of communication with supervisor.

September 26, 1973 - Letter as a result of various grievances culminating in the Local Investigating Committee recommending that there was a lack of responsibility toward the Company and to the position of First Operator.

October 26, 1973 - Letter of reprimand; two-day disciplinary layoff, without pay, for failing to report to work and ignoring instructions to contact supervisor.

December 10, 1974 - Letter of reprimand confirming requirement that a written statement from physician regarding illnesses before returning to work.

September 30, 1975 - Notice of wage garnishment, County of Alameda.

October 10, 1975 - Letter of reprimand for failure to properly notify supervisor of absences and due to past sick leave abuse, requirement of satisfactory evidence of illness in the future. Additionally, procedure to properly notify supervisor of future absences.

February 24, 1976 - Letter of reprimand; special reporting procedure in cases of absences.

July 26, 1976 - Notice of wage garnishment, City and County of San Francisco.

October 21, 1976 - Letter of reprimand revising letter of October 21, 1976, as a (March 29, 1977) result of grievance, improper notification of absence and abuse of sick leave.

December 22, 1976 - Notification of discharge.

FOR UNION:

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

FOR COMPANY:

J. A. Fairchild
 F. C. Buchholz
 D. J. Bergman

By *L. N. Foss*

By *D. J. Bergman*

Date 8-23-77

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