



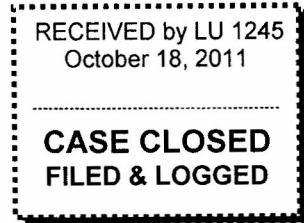
REVIEW COMMITTEE

IBEW



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DOUG VEADER, CHAIRMAN
 DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

BOB CHOATE, SECRETARY

Review Committee No. 19824 Electric Operations – Work & Resource - Fresno

Monica Oakes
Company Member
Local Investigating Committee

Mike Grill
Union Member
Local Investigating Committee

Subject of the Grievance

The grievance concerns a Decision Making Leave (DML) issued to a Work and Resource Coordinator (WRC) for failure to follow instructions and to obtain prior approval to work overtime.

Facts of the Case

The grievant is a Work and Resources Coordinator with seven years of Company service and currently on an active Written Reminder in conduct.

In January of 2009 an email was sent to the work group stating that when working on Saturday it will be a minimum of four hours and a maximum of eight hours with no skipping of lunch.

On April 13, 2009, the grievant was C&C'd for falsifying a time card and the grievant was on a Written Reminder from November of 2008 for a similar incident. The Written Reminder was for the grievant leaving early and putting in for the full day. The action was not grieved. The grievant admitted that he had left early and put in for the full day.

The grievant claimed no knowledge of the overtime policy or every having it communicated to him. The email mentioned above included the grievant in the addressee list.

The Supervisor reviewed the grievant's time card for October 31, 2009. The grievant had been assigned gas tags but upgraded himself to higher pay as if he was working on a jobs dealing with energized primary. After further review the grievant also worked in excess of eight hours and also skipped lunch.

Two WRCs in Fresno stated they received the emails but do recall a policy. Both stated that their overtime is preapproved by the supervisor. Both also indicated that if they were going to work more than eight hours they would contact their supervisor. The grievant in the majority of his Saturday assignments followed this policy through July 2009 where the grievant had worked 21 Saturdays. He had worked more than eight hours on February 21, 2009. The supervisor then sent out a second email that was verified by one WRC who testified at the LIC.

Discussion

The Union argued that there is no hard and fast rule or policy on Saturday overtime. No one in the LIC testified that there was a policy. The Union opined that given the facts in this case the discipline should be reduced to a C&C.

The Company maintained that it has been a department policy that anyone working overtime on a Saturday must work at least four hours and no more than eight without supervisory approval. It was also widely known that you are not to work through lunch without approval. The grievant was already on a Written Reminder for timecard issues and received a C&C the acceleration of the discipline in this case was appropriate.

The Committee had several discussions on this case and agrees that one could argue that the supervisor's email of January 15, 2009 refers to Saturday January 17, 2009 only. And no mentioned of a policy The LIC file does not have the follow up email around February 21, 2009 when the grievant exceeded the eight hour policy and was not disciplined. Additionally, on July 18, 2009 another WRC worked more than eight hours and was not disciplined and no supervisor email reinforcing the overtime policy was issued. There is no record that indicates there was any meeting of all the WRC to review the policy.

Lastly, the grievants actions and given that he was on a Written Reminder and another Coaching and Counseling subsequent to the Written Reminder in Conduct is a compelling Company argument in that the grievant has conduct issues.

Decision

Given the facts in this case the Committee agrees that the discipline was issued for just cause and closes this grievance without adjustment. This closure is with the understanding that any Company policy has to be clearly communicated to its employees . The facts of this case are not clear, but it appears that the WRC employees in Fresno have a general understanding that some policy exists.



Doug Veader, Chairman
Review Committee

10/13/11

Date



Bob Choate, Secretary
Review Committee

10/13/11

Date