



REVIEW COMMITTEE



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INTERNATIONAL BROTHERHOOD OF
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ROBIN WIX, CHAIRMAN
 DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

F.E. (ED) DWYER, JR., SECRETARY

Review Committee Number 22642 Electric Operations – Electric M&C – Jackson

Debbie Sargent
Company Member
Local Investigating Committee

Ken Amaral
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the termination of an M&C Coordinator for violation of the Employee Code of Conduct due to misuse of a Company vehicle, falsification of mileage reimbursement, tampering with the vehicle safety identification, and dishonesty.

Facts of the Case

The grievant was an Electric M&C Coordinator with 10 years of service. The grievant had no active discipline at the time of his termination.

The grievant was headquartered in Jackson, but also worked out of the Stockton Service Center and utilized an assigned vehicle from that yard when performing work in the Stockton area. The Company received a Driver Check from a PG&E employee regarding a PG&E vehicle (assigned to the grievant) that was being driven erratically in the Stockton area on December 12, 2013, at approximately 4:35 p.m. The Stockton supervisor also noted that the same vehicle had a magnetic PG&E logo covering the "How's My Driving" decal on the back of the truck. The same type of magnetic PG&E logo decal was found to be on the grievant's assigned vehicle in Jackson covering the "How's My Driving" decal.

The grievant denied that he drove the Stockton vehicle on December 12th as he had worked in Jackson on that day. Video footage from the Stockton Service Center identified a vehicle matching the grievant's personal vehicle entering the gate at 4:24 p.m. on December 12th. Gate entry records showed that the gate entry key fob (#861), assigned to the grievant, was also used to enter the gate at the same time the vehicle matching the grievant's personal vehicle entered the gate.

The grievant was scheduled to work overtime at 6:00 a.m. on Friday, December 13, 2013, at the Stockton Service Center prior to his regular shift. He was also scheduled to work overtime on Saturday, December 14, 2013. The grievant submitted for round trip mileage reimbursement for utilization of his personal vehicle to commute to a temporary headquarters from his home in Vacaville

to the Stockton Service Center on both days. Video footage shows a Company vehicle matching the grievant's assigned vehicle entering the Stockton Service Center gate prior to the start of the grievant's overtime assignments on both days at the same time as the gate entry records document that the grievant's assigned key fob (#861) was used to gain access through the gate. GPS records from the grievant's assigned Stockton vehicle document that the grievant travelled between the Stockton Service Center and his home in Vacaville at the end of his work period on December 13th.

In November 2013, the grievant's supervisor notified the grievant he was not to take his Company assigned vehicles home. Grievant denied having used his Company assigned vehicle to commute between his home and the Stockton Service Center during these days.

Discussion

The Union argued that the video footage allegedly showing the grievant entering the Stockton yard on Thursday, December 12th does not show the driver of the vehicle and there is no license plate on the front of the vehicle to identify that particular car as his personal vehicle. At the LIC, the grievant provided a vehicle work order from an Auto Body shop he uses in Fairfield that shows the same vehicle the Company alleges was entering the Stockton yard on Thursday was in the shop for repairs. The Auto Body owner confirmed that the grievant's vehicle was in the shop that week when the Union interviewed him, therefore the video footage must be of another employee's vehicle.

The Union further argued that the grievant had various key fobs assigned to him and that they were in his desk. Another employee could have used one of the key fobs to gain access. Finally, other employees have access to the grievant's assigned vehicle in Stockton and therefore the Company cannot confirm that it was the grievant driving the vehicle when the erratic driving was allegedly observed on Thursday. The grievant also denied that he used the magnetic logo to cover the "How's My Driving" decal on his assigned work vehicles. The Union argued that any employee could have placed the magnetic logos on the vehicles.

The Company argued that the Grievant's personal vehicle has unique modifications that are unlikely to be exactly matching another employee's vehicle. During the investigation, the grievant did not disclose to Corporate Security that his vehicle was in the shop during that time period, it was only after the fact at the LIC that the grievant produced an invoice from the Auto Body shop. The invoice indicated that the grievant paid in cash, so there is no electronic documentation to verify when the grievant picked up the vehicle. Based on the amount of evidence to the contrary, the Company cannot rely on the Auto Body owner's statements to be factual.

The Company further argued that key fobs used for access to Company facilities have assigned numbers that are specific to that device. The key fob assigned to the grievant is (#861) and was used on Thursday, December 12th to enter the Jackson yard on two occasions and was again used that same evening to enter the Stockton yard as indicated by the facts. Additionally, it was used on Friday, December 13th at the same time a Company vehicle matching the grievant's assigned vehicle was entering the Stockton gate at the allotted time the grievant's time card documents the start of his overtime assignment, and again on Saturday, December 14th. There is no clear explanation as to how another employee would have obtained the grievant's key fob to access the Stockton yard at 4:24 on Thursday when the grievant had possession of the key fob that day in Jackson per the gate entry records, or during the two overtime assignments. Furthermore, the GPS data from the grievant's assigned Stockton vehicle shows that the grievant was traveling between Stockton and Vacaville following the grievant's work assignment on Friday, December 13th.

The Company further argued the grievant falsely submitted for mileage reimbursement for using his personal vehicle to commute between his residence and the Stockton yard when evidence shows he was utilizing a Company vehicle without permission to commute.

Based on the factual evidence for which there is no plausible explanation, the Company maintains that the grievant's termination was for just cause.

Decision

This case has been discussed in detail and at length at every step of the grievance process. While the Union has placed a great deal of weight to the Auto Body owners statement regarding the grievant's vehicle being in the shop for repairs during the week in question, the Committee cannot discount the factual evidence in this case which included the record of key fob #861 usage. The Committee agreed the termination was for just cause. This case is closed without adjustment.

For the Company:

Robin Wix
Rod Williams
Tanya Moniz-Witten
Chris Zenner

For the Union:

F.E. (Ed) Dwyer, Jr.
Robert Mohler
Jim Brager
Karen Russell

Robin Wix 4/22/15
Robin Wix, Chairman Date
Review Committee

F.E. (Ed) Dwyer, Jr. 4/22/15
F.E. (Ed) Dwyer, Jr., Secretary Date
Review Committee