

7.1: An Edenvale/San Jose Appr. Lineman was given a DML and then was terminated for work performance (avoidable vehicle accident). Parties were able to reach a resolution before the sched. arb. hearing date. Grv. was reinstated; will receive retroactive pay; benefits will be restored and will be placed on a DML active from the date of his return to work.



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MARGARET A. SHORT, CHAIRMAN

- ☐ DECISION
- ☐ LETTER DECISION
- ☐ PRE-REVIEW REFERRAL

REVIEW COMMITTEE

RECEIVED by LU 1245
April 21, 2008

**CASE CLOSED
FILED & LOGGED**



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BOB CHOATE, SECRETARY

**ARBITRATION FILE NOS. 284 and 285
REVIEW COMMITTEE No. 16601 and 16744
Electric T&D – GC Line – San Jose Edenvale**

Voncille Williams
Company Member
Local Investigating Committee

Bill Brill
Union Member
Local Investigating Committee

Subject of the Grievance

These cases concern a Decision Making Leave and subsequent discharge of an Apprentice Lineman.

Facts of the Case

On March 2, 2006 the grievant and a Lineman were dispatched to make repairs to a failed 200 amp elbow. After arriving at the job site, they determined that the cable would need to be replaced and a crew needed. A Crew Lead and another Apprentice were dispatched to comprise a four person crew.

The grievant and the Lineman he was working with were responsible for grounding and testing the cables dead before removing the elbow. They tested four of six cables and did not place grounds on any of them, even though the Lineman reported on six grounds.

The Lineman attempted to remove the elbow with a fuse stick and lost control of it. The elbow fell and landed on a grounded bail of the adjacent elbow of the transformer causing a popping sound and an outage for customers. The grievant was not involved in the removal of the elbow as he was walking away from the area to get a hot stick propped against a nearby tree. He was going to assist the Lineman, but the Lineman proceeded without him.

On March 7, 2006 the grievant was given a Written Reminder in the Work Performance category for an avoidable vehicle incident occurring on October 28, 2005 in which he totaled a double bucket line truck. The WR was grieved and found to be for just cause in Pre-Review Committee No. 16578, dated June 30, 2007.

As the March 2, 2006 incident also falls into the Work Performance category of the Positive Discipline system, a DML was issued on March 31, 2006.

On May 24, 2006 the grievant drove a line truck with trailer to a job site and parked at the corner of a cul-de-sac. He parked approximately 150' from where the Crew Lead and a Lineman were switching. The Crew Lead instructed the grievant to "go to the worksite and set up workplace protection (signage and cones)." The grievant walked back to the truck and backed it up to turn around. He did not go forward because that street was very narrow with cars double parked. He was not aware that this street circled all the way around, that it was not a dead end. When the T&D Asst arrived, he suggested the grievant call the garage to come replace the "glad hand". That occurred and took a few minutes to repair. The grievant reported what occurred to the Crew Lead on the job and believed he'd met his obligation to report the incident. The Crew Lead did not report the incident to management because he said he told the grievant to "handle it."

The LIC report doesn't explain exactly what happened, but it does outline the damage observed by the Supervisor and the grievant when they visited the garage about a week after the incident. The damage to the truck included the deck being lifted up, the back right corner caved in, the handles broken, and the trailer buckled. The grievant indicated that the truck "was bent" before he left the yard but he was not sure about the amount of damage already done to the trailer before his accident.

Truck Operators are to complete a vehicle inspection checklist and turn it in each day. When asked for it, the grievant gave the supervisor two partially completed checklists for May 24.

Discussion

These cases have been discussed exhaustively at each step of the grievance procedure; however, the original Joint Statement of Facts signed in November 2006 raised additional questions. The case was returned to the Local Investigating Committee twice from Fact Finding and once from the Review Committee to gather additional information. By August 2007, the file was sufficiently complete to address questions raised about the facts of the DML incident. It was this additional information that cleared up conflicting statements in the LIC report about to what extent the grievant was involved in the elbow incident.

In the interest of moving the case along, it was referred to arbitration. However, the parties were able to reach a resolution before the scheduled arbitration hearing date. Details are as outlined below.

Decision

The grievant is to be reinstated as an Apprentice Lineman, Edenvale, at the same pay step he left. He will receive retroactive pay calculated at the rates in effect during the time he was off from the date of discharge, June 21, 2006, through March 28, 2008, assuming he reports for work as scheduled on March 31, 2008. The retroactivity will be offset by outside earnings. In order to verify those outside earnings, the grievant must submit his Income Tax filings for 2006, 2007, and 2008 when completed. Misrepresentation of earnings (failure to report or underreporting) will result in discharge.

The grievant must complete a pre-employment drug screen. He will remain discharged if the result is positive.

The grievant will be placed on a DML active from the date of his return to work for a period of time equivalent to that left on the original DML, approximately nine months.

As the grievant has been away from line work for almost two years, his skills will need to be assessed at the Livermore Training School. Should deficiencies be identified, the grievant is obligated to satisfactorily complete any recommendations made by the School and all progressive wage increases will be withheld until the deficiencies are corrected.

Benefits will be restored to pre-discharge options (in tact) except for vacation. As his vacation hours were paid out when he was discharged and the Company is on a vacation awarded as earned basis now, there are no vacation hours to restore.

The grievant declined to obtain a Class A license, and therefore is no longer entitled to the CDLA premium.

These cases are closed on the basis of the foregoing and will be removed from the arbitration schedule.

For the Company:

Margaret A. Short
Bob Lipscomb
Dave Morris
Craig Porter

By: Margaret Short
Date: 3/25/08

For the Union:

Bob Choate
William R. Bouzek
Louis Mennel
Karen Russell

By: Bob Choate
Date: 3/25/08

