



REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY
2850 SHADELANDS DRIVE, SUITE 100
WALNUT CREEK, CALIFORNIA 94598
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MARGARET A. SHORT, CHAIRMAN

DECISION
LETTER DECISION
PRE-REVIEW REFERRAL

RECEIVED by LU 1245
FEB. 13, 2002

**CASE CLOSED
FILED & LOGGED**

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 4790
WALNUT CREEK, CALIFORNIA 94596
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SALIM A. TAMIMI, SECRETARY

Pre-Review Committee Nos. 12913, 12884, 12694

Deanna Radford
Company Member
Local Investigating Committee

Larry Pierce
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the termination of a lineman with 22 years of service for making a death threat against his supervisor after being told about his DML. Concurrent grievances were also referred to the Pre-Review Committee for the Grievant's Decision Making Leave and Written Reminder (#122884 and #12694 respectively).

Facts of the Case

Termination #12913

The Grievant was terminated on Monday, August 13, 2001 for multiple acts of misconduct during and after he was placed on a DML. At the time of termination, the Grievant was on an active Decision Making Leave (DML), a Written Reminder, an Oral Reminder and received two coaching and counselings subsequent to the Written Reminder for unavailability.

Based on the totality of misconduct while on the Decision Making Leave, the Grievant was terminated effective August 13, 2001.

The Grievant was instructed by the Electric Crew Foreman to meet with his Supervisor on the morning of July 25, 2001, at which time, the Grievant was placed on a DML for unavailability. During the DML meeting, the grievant was uncooperative and verbally abusive. During this meeting, the grievant sat with his back to the Supervisor. When told to turn around, he called the Supervisor "an a__hole." The following day, July 26, 2001, the Grievant was instructed to take the DML day off to consider the terms and commitment of employment with Pacific Gas and Electric Company.

The Electric Crew Foreman stated on July 25, 2001 the crew was waiting in the yard for the Grievant to return from the meeting with the Supervisor. When the Grievant returned from the meeting, he appeared to be very upset and stated, "I'm going to my car and get my gun and fill the Supervisor with holes..." The Electric Crew Foreman stated two Linemen were nearby when the Grievant made the threat. The Electric Crew Foreman informed management of the Grievant's threatening remarks later that day when the crew returned from the job sites.

The crew, including the Grievant proceeded to several job sites. Upon arriving at the third job site, the Electric Crew Foreman observed the Grievant sitting in his truck writing. The Grievant informed the Electric Crew Foreman he was writing down the events that occurred on a prior day when the Crew Foreman took him to a hospital. The Grievant also asked the Electric Crew Foreman to write down what he recalled from that day. The Electric Crew Foreman told the Grievant this was not the time and there was work to do and to get to work with the crew. The Grievant refused to go to work and continued to write. The Electric Crew Foreman instructed the Grievant to return to the yard if he was not going to work with the crew. The Grievant and the Electric Crew Foreman got upset and yelled at each other; during which the Electric Crew Foreman, again, instructed the Grievant to return to the yard. The Grievant left the job site and returned to the yard.

When the Electric Crew Foreman returned to the yard, he learned the Grievant's Supervisor was not available. He contacted another Supervisor and reported the threatening remarks the Grievant made earlier that morning, i.e. shooting his Supervisor.

When interviewed by Corporate Security, the Grievant denied making the threatening statement regarding the Supervisor or anyone else. The Grievant denied that he has ever brought a firearm onto company property. The Grievant further informed Corporate Security on the day he was given the DML, he was very upset after speaking with the Supervisor and was talking loudly to the Electric Crew Foreman in the yard about what took place during the meeting with the Supervisor. The Grievant stated he did not recall exactly what he said to the Electric Crew Foreman, however, maintains he did not make threatening remarks. The Grievant declined to provide a signed statement from the Corporate Security interview.

Corporate Security also interviewed the two Linemen the Electric Crew Foreman stated were nearby when the Grievant made the threatening remarks. Both employees stated the Grievant appeared to be upset, was talking loudly to the Electric Crew Foreman, however, did not hear him make threatening remarks.

Corporate Security concluded although the two employees did not overhear the Grievant make threatening remarks directed toward the Supervisor, the Electric Crew Foreman had no apparent motive to be untruthful when he reported the threat to management. Corporate Security further concluded the Grievant violated standard practice 735.6-1, Employee Conduct Policy by threatening to shoot the Supervisor.

Decision Making Leave #12884

On July 26, 2001 the Grievant was placed on a DML for unavailability. The Grievant's availability for work had not improved since he received a Written Reminder. Prior to the DML, the Grievant was placed on a Written Reminder on April 20, 2001 and two subsequent coaching and counselings; May 14, 2001 and June 18, 2001. When the Grievant was issued the DML, he had no accumulated sick leave.

On May 1, 2001 the Grievant requested sick leave stating his truck broke down. The Grievant was denied sick time, however, was granted vacation. On the same day, the Supervisor warned the Grievant about his availability problem and that the issue would be addressed when he returned to work.

On May 22, 2001, the Grievant requested and was granted vacation stating his dog ran away.

On June 12, 2001, the Grievant requested and was denied vacation, again, stating his dog had gotten away. When denied vacation, the Grievant changed his story and stated he needed time off due to his mother's illness while traveling somewhere in a mobile home. The Grievant was informed he needed to return to work, however, was granted the use of Family Medical Leave. The Grievant called the following day, June 13, 2001 stating his mother was still ill and needed time off. The Supervisor requested proof of illness for his absence during this time; which took weeks and multiple requests for the Grievant to provide. The final time off prior to the DML occurred on July 19, 2001 when the Grievant experienced chest pains. The Grievant was treated at the hospital and released, without restrictions. The following day, he was a no call, no show until part way into his shift stating he needed more time off for further medical test. The Grievant also requested vacation the following Monday, however, was denied.

Throughout the Grievant's excessive use of sick leave, he was advised of the availability of EAP several times. Since the Grievant was placed on a WR he continued to have excessive sick leave usage and was issued a DML.

Written Reminder #12694

The Grievant was placed on a Written Reminder on April 20, 2001. At the time of the Written Reminder, the Grievant had used 64 hours of sick leave. The Grievant was off work ill a number of days. The Supervisor contacted the Grievant by telephone to request proof of illness upon his return to work. The Grievant provided proof of illness but states he would not have been off ill one of the days if he was not required to provide proof of illness prior to returning to work. There was no proof of illness requirement prior to the Supervisor's telephone message on April 10, 2001.

Since the Grievant's Oral Reminder on February 20, 2001 the Supervisor had on-going discussions and two coaching and counselings sessions regarding his availability. Due to the Grievant's on-going unavailability within the first four months of the year, he was given a Written Reminder.

Discussion

The Committee discussed and agreed to the appropriateness of the WR but the Union questioned whether the DML was appropriate.

However, the Pre-Review Committee agreed the Grievant's behavior while on the DML was inappropriate. During the DML meeting, the Grievant called his Supervisor an "a _hole" and turned his chair to face the corner. The Grievant made serious threatening remarks directed toward his Supervisor and while on one of the job sites refused to work, all of which are unacceptable behavior in the work place.

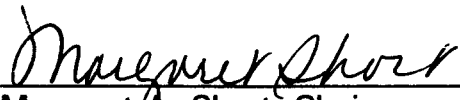
The Company takes threats to do harm very seriously and has an obligation to act on each and every one. Although, the Grievant's threatening remarks were not substantiated by the two Linemen, the Pre-Review Committee agreed the Electric Crew Foreman had no reason to fabricate a story that the Grievant made threatening remarks. However, it was substantiated the Grievant was in a very angry frame of mind after receiving the DML and acted and spoke inappropriately throughout the day.

The termination of the Grievant is supported by Arbitration 228 in which the discharge of an employee with no active discipline for placing bullets outside of his Supervisor's office was upheld.

Decision

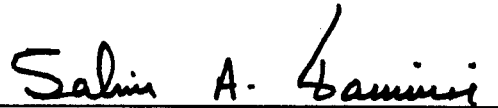
Based on the multiple acts of misconduct during and after the Grievant was placed on a DML, the Pre-Review Committee agreed, the Grievant was terminated for just and sufficient cause.

The case is considered closed without adjustment.



Margaret A. Short, Chairman
Review Committee

2/13/02
Date



Sam Tamimi, Secretary
Review Committee

2-13-02
Date