



REVIEW COMMITTEE



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JOHN MOFFAT, CHAIRMAN

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

RECEIVED by LU 1245
November 12, 2009

**CASE CLOSED
FILED & LOGGED**

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
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BOB CHOATE, SECRETARY

Review Committee Nos. 18414 and 18591 Energy Delivery – Electric Transmission - Eureka

Deanna Helm
Company Member
Local investigating Committee

Kit Stice
Union Member
Local Investigating Committee

Subject of the Grievance:

The DML and Termination of Lineman for Work Performance and Conduct.

Facts of the Case:

The Grievant is a Lineman with a hire date of July 14, 2003.

On April 29, 2008, the Grievant's crew was assigned to work at Humboldt Bay Power Plant (HBPP), the task was to remove idle facilities, which included spans of wire and poles.

Grievant stated the Crew Foreman did a tailboard and discussed the removal of 2 to 3 poles. The Grievant complained the rigging recommended by the Crew Foreman was not correct. An argument ensued with another Lineman and the Grievant. The Crew Foreman came over after hearing the argument and the Grievant walked away saying he would not be part of this procedure.

The Grievant walked about 100 feet away from the job and the crew continued with the removal of the pole. One Lineman tied the pole butt line and the other Lineman opened the grabbers for some reason and the Lineman holding the line went flying through the air.

The crew was told to report back to the yard to discuss the event with the supervisor. On the way back into the yard the crew responded to a car pole accident and made the situation safe until another crew arrived to make the repairs.

The Grievant alleges that he was too upset to participate in the discussion with the supervisor. The grievant subsequently went to the supervisor's office and alleges he was not able to tell his side of the story due to the fact that he was constantly interrupted. The grievant, ten minutes later called his Crew Foreman to inform him he was going home sick for the remainder of the day.

During the investigation meeting with the supervisor and superintendent the Grievant became upset alleging he was being "thrown under the bus" by his co-workers and he was receiving the harshest discipline which was not fair. At this meeting the grievant continued to swear and use expletive language.

The Grievant was issued a DML on May 23, 2008, for Work Performance and Conduct. The Crew Foreman also received a DML and the other crew members received a Written Reminder.

On September 8, 2008, the Grievant was terminated for an at risk maneuver/behavior, for failure to properly complete a project and inappropriate behavior.

The at risk maneuver/behavior occurred on June 4, 2008 for which the Grievant turned in a pink slip on June 17, 2008. The Grievant hurt his knee while maneuvering around a truck which was parked on the job site. The superintendent and supervisor both testified at the LIC that the maneuver was not necessary that there was another way to get around the truck and that climbing over the vehicle was not necessary. The Grievant said he was trying to avoid the drop zone. The result of the injury was six weeks of light duty.

The superintendent also stated that another factor in the termination was the fact that the crew failed to bring the pole worked on June 4 up to standard. The high voltage signs were missing, the guy markers were missing and the guy wire was slack. According to the superintendent the materials were available and there was no report that additional work would be required on the pole. The cost to bring the pole up to standard is estimated to cost \$4,000. All crew members were disciplined.

The Grievant stated that the work that was not done was the responsibility of the Crew Foreman and the other Lineman on the job site. He stated that he left before the job was complete to drop off a truck to the mechanic.

The inappropriate conduct was the Grievant's behavior during the LIC where the Grievant acted aggressively and used inappropriate language. The Grievant was issued a Coaching and Counseling for his antics. After being C&C'd he then began to argue about an overtime assignment with the supervisor.

Discussion

The Union argued that the DML was too severe and that the Grievant was right about the improper rigging of the pole. If the crew would have listened to him the Lineman would not have catapulted through the air.

The Company argued on the DML that the proper tools were not used to remove the pole. The Company later determined that a pole jack should have been used to remove the pole. The Grievant should have discussed it with the Crew Foreman and avoided a confrontation. The Grievant was combative, argumentative and insubordinate by walking away from the job site.

The Union argued that the termination was too severe and that the DML previously issued was inappropriate. The incident on June 4 should be a C&C and does not warrant termination.

The Company argued that the grievant was on an active DML and failed to properly complete a job as a member of a crew and also violated work and safety procedures. The Grievant did have one C&C prior to termination for his behavior in the LIC. Based on the PD guidelines it was appropriate to terminate the grievant.

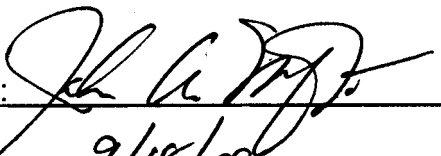
Decision:

The parties agree that the Grievant's behavior in a number of incidents was inappropriate. The grievant was correct about the rigging and a better solution should have been developed by the crew. Walking away does not remedy the problem or make anyone safer. The question is whether the DML was too severe. Since the grievant received the same level of discipline as the Crew Foreman in this case the discipline is too severe and should be removed. In the second case the Grievant was terminated due to the fact that he was on a DML. The Grievant was at fault for his behavior for which

he was C&C'd, failure to exercise good judgment, which resulted in an injury and being part of a crew that failed to properly complete a job. Since the DML was removed, the termination should be reduced to a C&C resulting in the Grievant being returned to work. The Grievant will be returned at the C&C step effective the date of return with back pay and benefits, less any outside earnings.

For the Company:

John Moffat
Gayle Hamilton
Dave Morris
Malia Wolf

By: 
Date: 9/18/09

For the Union:

Bob Choate
William R. Bouzek
Louis Mennel
Russ Rylee
Karen Russel

By: 
Date: 9/18/09