

**ALBANY NECA CHAPTER
LABOR MANAGEMENT COMMITTEE**

GRIEVANCE DECISION

April 5, 2016

A meeting of the Labor Management Committee (LMC) was held on **Tuesday April 5, at Noon** at the Albany NECA Chapter Office, 16 Wade Road, Latham, New York, for the purpose of addressing a Petition for Grievance filed by IBEW Local 236 against O'Connell Electric Co. (O'Connell). (See attached Notice of Grievance Hearing).

Present at the Hearing:

Committee Members

IBEW Local 236

Michael Torres, Chair
Paul Fitzmaurice
John Mosher

Albany NECA Chapter

Jerrald Cherrier, Chair
Eileen LaCorte
Joseph Miner

Albany NECA Chapter Manager/Secretary
Business Manager IBEW Local 236

Stephen Chamberlain
Mark Lajeunesse

For Grievants

Mark Lajeunesse on behalf of IBEW Local 236

For Respondent

Philip Yandow from O'Connell Electric Co.
Stephen Chamberlain on behalf of the Employer

After careful consideration of the evidence provided, the committee ruled as follows:

The committee dismissed the grievance.

Respectfully Submitted,



Michael Torres
LMC Chairman
IBEW Local 236



Stephen Chamberlain
Chapter Manager/Secretary
Albany NECA Chapter

Attachment

cc: John Mosher, President IBEW Local 236
Paul Fitzmaurice, IBEW Local 236
Mr. Mark Lajeunesse, Business Manager IBEW Local 236
Philip Yandow, O'Connell Electric Co.
Contractor LMC members

**ALBANY NECA CHAPTER
LABOR MANAGEMENT COMMITTEE
NOTICE OF GRIEVANCE HEARING**

March 28, 2016

Please be advised that notice of a Petition for Grievance has been filed by IBEW Local 236 (Local) against O'Connell Electric Co. (O'Connell) with a request that this matter be heard before the Labor Management Committee (LMC) on **Tuesday April 5, at Noon** at the Albany NECA Chapter Office, 16 Wade Road, Latham, NY.

The grievance scheduled to be heard stems from a charge filed by the Local against the Contractor as follows:

Charge:

- a. On February 5, 2016 IBEW Local 236 filed a grievance alleging "Violation of our working agreement Section 3.20. O'Connell Electric failed to pay a Local 236 member as foreman on job at Comstock Prison Power distribution project from 4-16-15 thru 2-1-16."

Background:

Grievant alleges that O'Connell failed to pay a Local 236 member as a foreman at the Great Meadow Correctional Facility power distribution project from April 16, 2015 through February 1, 2016.

Remedy Sought By Grievant:

The Local seeks, "...15% of the wages paid on all hours worked by Steve Funk between 4-16-15 and 2-1-16."

Respondent's Contention:

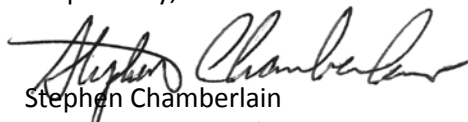
- To be Presented at the Hearing -

| | | |
|-------------------|-------------------------------|--|
| Attendees: | Local 236 Committee Members: | To be determined by Local. |
| | Contractor Committee Members: | Jerald Cherrier - Chairman Kevin Haggerty Eileen LaCorte |

To Be Determined to represent Local 236

To Be Determined to represent O'Connell Electric Co.

Respectfully,


Stephen Chamberlain
Executive Director /Secretary
Albany NECA Chapter

cc: John Mosher, President IBEW Local 236
Paul Fitzmaurice, IBEW Local 236
Mr. Mark Lajeunesse, Business Manager IBEW Local 236
Philip Yandow, O'Connell Electric
Contractor LMC members

I.B.E.W. LOCAL UNION # 236
3000 TROY SCHENECTADY ROAD
SCHENECTADY, NEW YORK 12309
TELEPHONE: (518) 783-9957
FAX: (518) 783-5338

**I.B.E.W. LOCAL
UNION # 236**

Fax

To: NECA

From: Paul Fitzmaurice

Fax: 518-220-9303

Pages: 2

Phone: 518-785-5876

Date: 2/5/16

Re: Grievance

CC:

Urgent For Review Please Comment Please Reply Please Recycle

Please find copy of grievance filed against O'Connell Electric for violation of our working agreement Section 3.20. On all jobs or electrical contracts requiring a Foreman or General Foreman, the Foreman or General Foreman in charge of such job shall be a Journeyman Electrician member of Local Union 236.

Thank you,

Paul

Paul Fitzmaurice
Assistant Business Manager
518-783-9957 Ext. 3016
518-783-5336 Fax
pfitzmaurice@ibew236.org

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

Grievance Form and Record of Proceedings

L. U. 236

Co. _____

Grievance No. _____

NAME Paul Fitzmaurice DATE 2-5-16 TIME 11:45 A.M. / P.M.
EMPLOYEE I.D. No. _____ DEPT. _____

STATE GRIEVANCE: Violation of our working agreement Sec. 3.20. O'Connell, Electric failed to pay a local 236 member as Peruvian on job at Carstock Wilson-Burke distribution project from 4-16-15 thru 2-1-16

SETTLEMENT REQUESTED: We seek 15% of the wages paid on all hours worked by Steve Pink between 4-16-15 and 2-1-16.

SIGNED [Signature]
AGGRIEVED EMPLOYEE

SIGNED [Signature]
UNION REPRESENTATIVE

COMPANY'S REPLY TO GRIEVANCE: _____

IS DECISION SATISFACTORY? YES _____ NO _____
HAS CASE BEEN APPEALED? YES _____ NO _____
SIGNED _____ DATE _____
UNION REPRESENTATIVE

UNION'S REPLY: _____

SIGNED _____ DATE _____
UNION REPRESENTATIVE

COMPANY'S REPLY: _____

IS DECISION SATISFACTORY? YES _____ NO _____
HAS CASE BEEN APPEALED? YES _____ NO _____
SIGNED _____ DATE _____
UNION REPRESENTATIVE

UNION'S REPLY: _____

SIGNED _____ DATE _____
UNION REPRESENTATIVE

COMPANY'S REPLY: _____

IS DECISION SATISFACTORY? YES _____ NO _____
SIGNED _____ DATE _____
UNION REPRESENTATIVE

CASE APPEALED BY: UNION _____ DATE _____
COMPANY _____

(IF SPACE IN ANY STEP IS INADEQUATE, ATTACH SEPARATE SHEETS)

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

Grievance Form and Record of Proceedings

L. U. 236

Co. _____

Grievance No. _____

NAME Paul Fitzmaurice DATE 2-5-16 TIME 11:45 A.M. P.M.
EMPLOYEE I.D. No. _____ DEPT. _____

STATE GRIEVANCE: Violation of our working agreement Sec. 3.20. O'Connell Electric failed to pay a local 236 member of Foreman on job at Conestoga Prison Power distribution project from 4-16-15 thru 2-1-16

SETTLEMENT REQUESTED: We seek 15% of the wages paid on all hours worked by Steve Frank between 4-16-15 and 2-1-16.

SIGNED [Signature]
AGRIEVED EMPLOYEE

SIGNED [Signature]
UNION REPRESENTATIVE

COMPANY'S REPLY TO GRIEVANCE: It is the position of O'Connell Electric that we are not in violation of working agreement Section 3.20. We requested & were verbally granted permission to bring our foreman Dave Trombly down from local 910 to run the Great Meadows project. This discussion occurred during a business meeting attended by Mark Lajeunesse, Donald Rahm, Thomas Parkes, Vic Salerno, Don Coon, Mark Keeler & Chris Adams

SIGNED [Signature]
COMPANY REPRESENTATIVE
DATE 2/11/16

IS DECISION SATISFACTORY? YES NO

HAS CASE BEEN APPEALED? YES NO
SIGNED _____ DATE _____
UNION REPRESENTATIVE

UNION'S REPLY: _____
SIGNED _____ DATE _____
UNION REPRESENTATIVE

COMPANY'S REPLY: _____
SIGNED _____ DATE _____
COMPANY REPRESENTATIVE

IS DECISION SATISFACTORY? YES NO

HAS CASE BEEN APPEALED? YES NO
SIGNED _____ DATE _____
UNION REPRESENTATIVE

UNION'S REPLY: _____
SIGNED _____ DATE _____
UNION REPRESENTATIVE

COMPANY'S REPLY: _____
SIGNED _____ DATE _____
COMPANY REPRESENTATIVE

IS DECISION SATISFACTORY? YES NO

HAS CASE BEEN APPEALED? YES NO
SIGNED _____ DATE _____
UNION REPRESENTATIVE

CASE APPEALED BY: UNION _____ DATE _____
COMPANY _____

(IF SPACE IN ANY STEP IS INADEQUATE, ATTACH SEPARATE SHEETS)

Respondent's Contention:
IBEW Local 236 v O'Connell Electric

It is the position of O'Connell Electric that they were not in violation of Section 3.20 of the Inside Agreement in that the Local had waived the requirement that a foreman be a member of Local 236t.

Due to the complexity of the work done (elastimold cable splicing) and the location of the work in a maximum security correctional facility, O'Connell requested and was verbally granted permission to bring their own worker Dave Trombly from Local 910 to act as foreman on the Great Meadows project. This discussion occurred during a business meeting attended by Mark Lajeunesse and Don Rahm from the Local and Thomas Parkes, Victor Salerno, Don Coon, Mark Keeler and Chris Adams from O'Connell. Based on the above information O'Connell believes the grievance should be dismissed.

In the event the committee finds for the grievant, the remedy should be time limited under Section 1.10 of the Inside Agreement to the hours worked from ten calendar days from the time the grievance was filed. It should also be noted that the remedy sought that Steve Funk receive foreman's wages is a violation of the Inside Agreement Article II Section 2.03 (management rights) in that it infringes on the employer's right to determine who will act as (and be paid) as a foreman. O'Connell and not the Local should determine which individual should receive any funds that may be paid under the remedy sought.