

ALBANY NECA CHAPTER LABOR MANAGEMENT COMMITTEE

GRIEVANCE Decision

September 27, 2016

A meeting of the Labor Management Committee was held on Tuesday September 27, 2016 at the Albany NECA Chapter Office, 16 Wade Road, Latham, New York, for the purpose of addressing a grievance filed by IBEW Local 236 on behalf of Edward Ruede, Jr. against Flex Electrical Constructors, Inc. (Flex) (See attached Notice of Grievance Hearing).

Present at the Hearing:

Committee Members

IBEW Local 236

Mark Lajeunesse, Chair
Mike Torres
John Mosher

Albany NECA Chapter

Jerrald Cherrier, Chair
Eileen LaCorte

Albany NECA Chapter Manager/Secretary Stephen Chamberlain
IBEW Local 236 Assistant Business Manager Paul Fitzmaurice

For Grievant

Paul Fitzmaurice on behalf of IBEW Local 236
Edward Ruede, Jr. – Grievant

For Respondent

Kevin Haggerty – Flex Electrical Constructors, Inc.

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

a. Regarding the alleged violation of Article II, Section 2.13 of the Agreement

Flex provided sufficient evidence there was no violation of the collective bargaining agreement.

b. Regarding the alleged violation of Article II, Section 2.17 of the Agreement

The committee found Flex failed to provide notice of to the Local regarding discharge of an employee as required by the collective bargaining agreement.

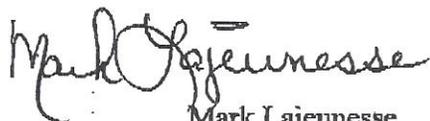
Grievance Decision

Local 236-Ruede v Flex Electrical Constructors

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The committee directs Flex to affirm to the Local in writing they will endeavor to notify the Local of an employee's discharge as required by the collective bargaining agreement.

Respectfully Submitted,



Mark Lajeunesse
LMC Chairman
IBEW Local 236



Stephen Chamberlain
Chapter Manager/Secretary
Albany NECA Chapter

Attachments

- cc: Kevin Haggerty, Flex Electrical Constructors, Inc.
- John Mosher, President IBEW Local 236
- Paul Fitzmaurice, Assistant Business Manager IBEW Local 236
- Mike Torres, Assistant Business Manager IBEW Local 236
- Contractor LMC members

**ALBANY NECA CHAPTER
LABOR MANAGEMENT COMMITTEE**

NOTICE OF GRIEVANCE HEARING

September 15, 2016

Please be advised that notice of a Petition for Grievance has been filed by IBEW Local 236 (Local) on behalf of Edward Ruede Jr. against Flex Electrical Constructors, Inc. (Flex Electric) with a request that this matter be heard before the Labor Management Committee (LMC). The hearing will be **11:00 am Tuesday September 27, 2016** at the Albany NECA Chapter, 16 Wade Road, Latham, NY.

The grievance to be heard stems from charges filed by the Local on behalf of Edward Ruede Jr. against Flex Electric as follows:

Charge:

- a. The Local and Mr. Ruede allege Flex Electric violated Article II, Section 2.13 of the Agreement between IBEW Local No. 236 and the Albany Electrical Contractors Association NECA Albany Chapter, by failing to meet the ratio for workers over age 50.
- b. The Local and Mr. Ruede allege Flex Electric violated Article II, Section 2.17 of the Agreement between IBEW Local No. 236 and the Albany Electrical Contractors Association NECA Albany Chapter, by failing to provide 48 hours advance notice to the business office of the union in advance in advance of his layoff.

Background:

Grievant was hired July 25, 2016 Flex Electric and was laid off on July 29, 2016.

Remedy Sought By Grievant:

“All back pay and benefits from July, 29 through the end of the project.”

Respondent’s Contention:

- To be presented at the hearing -

Attendees: Local 236 Committee Members:
Contractor Committee Members:

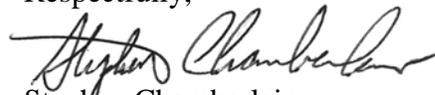
To be determined by Local.

Jerald Cherrier - Chairman
Kevin Haggerty
Eileen LaCorte
Joseph Miner - Alternate

To represent Local 236:
To represent Gross Electric, Inc.:

To be determined
To be determined

Respectfully,



Stephen Chamberlain
Executive Director /LMC Secretary

Attachments

cc: Kevin Haggerty, Flex Electrical Constructors, Inc.
Mark Lajeunesse, Business Manager IBEW Local 236
John Mosher, President IBEW Local 236
Contractor LMC members

Respondent's Contention

Regarding Charge a:

Flex Electric has met the required age ratio of journeymen, the job site where Mr. Ruede alleges a violation of Section 2.13 has five journeymen working; one of which (Mark Johnson) is over 50 years old.

Regarding Charge b:

Mr. Ruede was discharged for poor work performance but given a layoff due to lack of work so as not to impair his ability to secure other employment.

Flex Electric, when hiring new employees, anticipates a transition of one to two days for a new hire to acclimate to the jobsite. The grievant was hired on Monday July 25th, the foreman determined on Thursday following work that Mr. Ruede's work performance did not meet the requirements needed and called his office to discharge Mr. Ruede the next day (July 29th). The foreman's judgment was based on Mr. Ruede's need to repeatedly ask other workers for directions as to how and what he should be doing after receiving directions from him. Mr. Ruede's repeated questions regarding what work to perform and inability to complete the tasks assigned to him without questioning others was interfering with the ability of the other workers to complete their tasks.

Additionally, in order for Mr. Ruede to maintain his referral position under Article IV, Section 4.13 (short-call) if he had been terminated for cause or worked more than 40 hours he would no longer be able to return to his position on the referral list. In order to provide 48 hours notice to the business office in advance would have required the determination that his performance did not meet job requirements to be made a day earlier or to keep the employee working beyond the 40 hour limit that would preserve his place on the referral list.

Practically speaking providing notice for termination for cause is not the same as a planned layoff and should not be treated as such. Notice to the Local regarding dismissal may act as notice to an employee which could allow the terminated employee 48 hours to disrupt the jobsite and the contractor's relationship with the customer.

Flex Electric does not believe that failure to provide 48 hours notice to the business office for what is essentially a discharge for cause makes the termination improper, and respectfully requests the committee to dismiss the grievance.

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



To: NECA

From: Paul Fitzmaurice

Part: 518-220-9303

Pages: 2

Phone: 518-785-5876

Date: 8/8/16

Re: Grievance

CC:

- Urgent
- For Review
- Please Comment
- Please Reply
- Please Recycle

Steve, attached is grievance filed by Edward J. Ruede Jr. for violations named against Flex Electric

Thank you, Paul.

Paul Fitzmaurice
Assistant Business Manager
518-783-9957 Ext. 3016
518-783-5336 Fax
518-878-1196 cell
pfitzmaurice@lbew236.org

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

Grievance Form and Record of Proceedings

E. U. 236

Co. _____

Grievance No. _____

NAME Edward C. Ruede Jr. DATE 8-8-16 TIME 10:45 (A.M./P.M.)
 EMPLOYEE I.D. No. _____ DEPT. _____

STATE GRIEVANCE: Violation of Section 2.13 age ratio, section 2.17 no 48-hour notice to the hall at layoff. Layoff due to subpar workmanship with no verbal or written notice of subpar workmanship given prior to layoff.

SETTLEMENT REQUESTED: All back pay and benefits from July 29 through the end of the project

SIGNED [Signature]
 AGRIEVED EMPLOYEE

SIGNED [Signature]
 UNION REPRESENTATIVE

COMPANY'S REPLY TO GRIEVANCE: _____

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

UNION'S REPLY: _____

SIGNED _____ DATE _____
 UNION REPRESENTATIVE

COMPANY'S REPLY: _____

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

UNION'S REPLY: _____

SIGNED _____ DATE _____
 UNION REPRESENTATIVE

COMPANY'S REPLY: _____

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

CASE APPEALS BY: UNION _____ DATE _____
 COMPANY _____

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