

**Littlejohn v Martin Electric –
Improper termination and failure to provide notice of termination.**

Charge withdrawn by Local 236 prior to hearing

I.B.E.W. LOCAL UNION # 236
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To: NECA

From: Paul Fitzmaurice

Phone: 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

This is notice of grievance being filed today by Kevin Littlejohn against George Martin&Sons for violations of the CBA and the PLA in effect at the Rivers Casino.

Thank you, Paul.

Paul Fitzmaurice
Assistant Business Manager
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INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS

Grievance Form and Record of Proceedings

L. U. 1217

Co. _____

Grievance No. _____

NAME Karen Littlejohn DATE 8-9-16 TIME 2:05 A.M. (P.M.)

EMPLOYEE I.D. No. _____ DEPT. _____
REASON FOR FILING GRIEVANCE For violation of Article 7 Sec 1 of the PLA
termination for just cause and Sec 3.12 of the CBA termination slip - it
was never delivered to grievant.

SETTLEMENT PROPOSED: Reinstatement to job and back pay and benefits from
July 23 to date of reinstatement

SIGNED _____
GRIEVING EMPLOYEE

SIGNED Paul F. Jones
UNION REPRESENTATIVE

COMPANY'S REPLY TO GRIEVANCE: _____

IS DECISION SATISFACTORY? Yes _____ No _____
SIGNED _____ COMPANY REPRESENTATIVE DATE _____
HAS CASE BEEN APPEALED? Yes _____ No _____

SIGNED _____ UNION REPRESENTATIVE DATE _____

UNION'S REPLY: _____

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

IS DECISION SATISFACTORY? Yes _____ No _____
SIGNED _____ COMPANY REPRESENTATIVE DATE _____
HAS CASE BEEN APPEALED? Yes _____ No _____

SIGNED _____ UNION REPRESENTATIVE DATE _____

UNION'S REPLY: _____

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

IS DECISION SATISFACTORY? Yes _____ No _____
SIGNED _____ COMPANY REPRESENTATIVE DATE _____
SIGNED _____ UNION REPRESENTATIVE DATE _____

CASES REPRESENTED BY UNION _____ DATE _____
COMPANY _____

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

Respondent's Contention

The Local claims a violation of Article 7, Section 1 of the PLA and by extension Article III Section 3.12 of Inside Agreement in which it is claimed the grievant Mr. Littlejohn did not receive a discharge slip which invalidates the termination.

It is difficult to determine the basis of the grievance since the very section of the PLA cited by the Local as the basis of the grievance provides the contractor the right to discharge an employee for "a just cause"

ARTICLE 7 – MANAGEMENT'S RIGHTS

Section 1. Reservation of Rights

Except as expressly limited by a specific provisions of this Agreement, Contractors retain full and exclusive authority for the management of their operations including, but not limited to: the right to direct the work force; including determination as to the number to be hired and the qualifications therefore; the promotion, transfer, or the discipline or discharge for a just cause of its employees; the assignment and schedule of work; the promulgation of reasonable Project work rules, and the requirement, timing and number of employees to be utilized for overtime work. Nothing contained herein shall be construed so as to allow direction of an Employee to perform work outside the jurisdiction of that Employees Labor Union affiliation, if any. No rules, customs, or practices as determined by the contractor which limit or restrict productivity or efficiency of the individual, and/or joint working efforts with other employees shall be permitted or observed.

It should be noted that the just cause for discharge of Mr. Littlejohn was due repeated call ins after work time had begun (at times up to 3 hour past start time) and not showing up at all for work.

While the management rights language in the Inside Agreement in Article II. Section 2.03 is limited, the management rights language in the PLA above is not, based on Article 2, Section 3, the language in the PLA prevails.

ARTICLE 2 – PARTIES COVERED BY THIS AGREEMENT AND GENERAL CONDITIONS

Section 3. Supremacy Clause

This Agreement, together with the Collective Bargaining Agreements (Schedule A) represents the complete understanding of all parties covered by this Agreement and supersedes any national, local or other collective bargaining agreement of any type which would otherwise apply to this Project, in whole or in part. Where a subject covered by the provisions, explicit or implicit, of this Agreement is also covered by provisions set forth in the Collective Bargaining

Agreements the provisions of this Agreement shall prevail. No practice, understanding or agreement between a Contractor and a Local Union which is not explicitly set forth in this Agreement shall be binding on this Project unless endorsed in writing by the Contractor.

Even if the failure to provide a discharge slip were to somehow invalidate a termination, the discharge slip is not required based on Article 7, Section 1 and Article 2, Section 3.

Additionally, since the PLA has within the agreement, in Article 10, a grievance and arbitration procedure, based on the Supremacy Clause the grievance procedure within the PLA is the proper forum to pursue the grievance.

However, beyond the issues surrounding the applicability of the PLA and the inside agreement the facts surrounding Mr. Littlejohn's termination clearly show that he was terminated properly and for just cause. This includes the following work history:

Hire Date: June 27, 2016

Absent: July 5, 2016 – No notification (he texted his foreman at 10:52)
July 25, 2016 – Notice, text to foreman at 7:09 am after his work shift started.
July 26, 2016 – Notice, text to foreman at 7:56 am after his work shift started (texted after general foreman from Martin Electric called him).

Late: June 30, 2016 – Documented time 7:15 am (missed the sign in sheet because he was late, wasn't paid for that date, later we had to issue his pay for the time he was here.)

Early Departure: July 21, 2016 – Documented time 12:00 pm (stated he had to leave to go get his dog that had gotten loose)

Mr. Littlejohn was terminated for cause on July 27, 2016, and since he did not come to work that day his discharge slip and paycheck were mailed to him.

George Martin Electric properly terminated Mr. Littlejohn and respectfully requests the dismissal of the grievance.