

Review Committee Decision

ESC Review Committee File Number #938

Grievances: 22514 PRC 677 filed 3/14/2014 grievant Jim Evans
22258 PRC 680 filed 4/7/2014 grievant Marcia Manalo

Subject of the Grievance

Grievants listed above received ratings in the Lower L and a reduced STIP payment, but not zero STIP.

Facts of the Case

Each grievant received a rating of either "Target-Developing" or "Below Target-Successful." No grievants in these cases were rated "Below Target-Developing." The grievants received a reduced STIP payment but PWI was not withheld in any of the cases.

Following investigation, because it appeared that the Company may not have met procedural obligations to provide direct and timely feedback of specific performance issues, the Company was willing to make employees whole for the STIP payment, but not to change the PMP rating itself.

Discussion

The Union and Company pointed to LOA 83-5, which says:

"it shall henceforth be the Company's policy that appraisal reports developed as a result of applicable Standard Practices shall not be used at any stage of the grievance procedure by either Company or Union or by Company in making promotion, demotion or discipline decisions within the bargaining unit."

ESC argued that if PMP ratings can have impacts on employees for promotional purposes then those rating should be subject to grievances. For example if ratings are used for the application of section 21.18.c, when interview panels consider "current performance" those ratings should be subject to grievances. Similarly, many monthly jobs have "satisfactory performance" as a criteria for advancement within the Line of Progression (for example, for advancing from Associate Engineer to journey Engineer) and advancement through the wage scale by application of 15.4. Therefore, if PMP ratings are used to determine the above, those ratings should be grievable and the Company ought to adjust them when presented with sufficient evidence.

The Company responded that if it did not rely on PMP ratings for any type of action which could affect an employee's promotion, demotion or discipline, and then the PMP ratings would be non-grievable. The Company already believed this to be the case, saying that it could not find an instance where an interview panel had reviewed an employee's PMP rating in the course of conducting interviews to fill a vacancy.

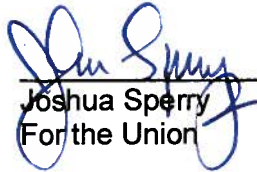
Disposition

The Company and Union agree that, in accordance with the contract, the Company does not use PMP ratings in making promotion, demotion or discipline decisions. PMP ratings may not be used in reference to "current performance" in 21.18.c, "satisfactory performance" in advancement criteria, or any other contractual process. Accordingly, since the Company does

not use performance ratings for purposes of promotional consideration, layoff or demotion as prescribed by LOA 83-5, the rating themselves shall not be grieved.

The grievants listed above will be paid the difference between the STIP payment they received and what they would have received if they had been rated "Target-Successful."

This is agreed upon as a complete settlement of all the Union's grievances referenced above.


Joshua Sperry
For the Union

8/28/14
date


Matthew Levy
For the Company

8/28/14
date