

## THE DISQUALIFICATION OF CURRENT EMPLOYEES

### Background

This case concerns the complaints of two black employees who were disqualified for an available electrician position. The first employee, John Bell was suddenly disqualified after 6 days on the job. The Employer claims that Bell lacks the required knowledge in DC electricity to perform the job satisfactorily. A second employee, Chad Lanier, was disqualified because he was not able to successfully complete assigned work. The company had a current policy of evaluating new hires on the basis of education and experience and assigned the individual to an experienced electrician to learn the job.

### John Bell's Position

Bell states that the company told him that his disqualification was as a result of lack of knowledge in DC electronics. Bell contends that in the past this obviously did not matter because of cited examples of the company going outside the company for repairs that company electricians were unable to complete.

Further, he claims he received no formal training on the job while persons hired from outside the Company were placed with an experienced electrician to familiarize them with the plant and its machinery. Bell admits some problem in repairing a #70 cone but points to the company's record of hiring electricians from outside

to repair equipment. However, Bell points to the fact that he was able in the past to repair machinery which required knowledge of DC electricity, a fact that the company was aware of. Bell's record showed that he recently finished one quarter of an electronics course in CD fundamentals at a local technical college with an A average. This, Bell contends, is evidence that he does have the ability to perform the job.

#### Chad Lanier's Position

During the first 6 days on the new job Lanier's record showed examples of a lack of familiarization with electronics equipment and an inability to complete assigned duties. Lanier claims that he did complete a list of duties equally as important as the repair of a cone. Lanier alleges that cone repair is difficult at best and points to the fact that it often takes experienced electricians weeks to repair DC equipment. Lanier's personnel record shows that he completed a course in Basic Refrigeration. With one segment of the course in DC electricity, but admits having not had a course in industrial electricity. Lanier claims that his disqualification was racially motivated and provides as evidence the fact that the Company has no black electricians in the plant.

#### The Company's Position

The Company claims it followed the letter of the training policy and allowed each employee an opportunity to fulfill 5 days of work before deciding on qualification. The Company argues that

neither employee received training during the trial period but that was not required in the current employment handbook.

In Bell's case, the Company's record showed the inability to complete the repair of the #70 cone, a job eventually repaired by 2 company electricians.

In Lanier's case evidence shows his inability to perform fundamental electronics work, including testing equipment.

The Company's supervisors witnessed both men working and concluded neither could perform the job unassisted.

## 18. THE DISQUALIFICATION OF CURRENT EMPLOYEES

1. Evaluate the Company qualification practice. Is this discrimination? Explain.
2. Is the lack of black electricians evidence of racial discrimination? Explain.
3. On what variable should a decision of this type be based?
4. How would you rule? Why?

Background

Simon Warren had been employed with the Gill Studios as a Press Operator for 8 1/2 years. As such, he had been a good employee, up until three years prior to his grievance and discharge. He began having problems with his supervisors and with tardiness and absenteeism. The situation became severe enough for him to receive written reprimands and, ultimately, a termination notice.

On May 20, 1981, Warren was issued his first written reprimand for the six-month period. His immediate supervisor, Mr. Romine, had asked Warren to assist in setting up a new job before his shift ended. Warren went to the rest-room, then spent the remaining 20 minutes of his shift cleaning out plastic ink buckets. Employees are allowed to take the buckets home, but any cleaning must be done on non-work time. When approached about his activities, Warren stated that Mr. Romine had expressed interest in obtaining some of the buckets and the clean ones were for him. Mr. Romine told Warren to leave the buckets alone, and wrote a Reprimand Report for wasting company time.

On November 19, 1981, Warren and a coworker were standing at their presses. Mr. Romine walked by the area and noticed a bucket of ink had been spilled on the floor. He instructed Warren and the other worker to clean up the mess. The other worker began scraping the ink off the floor with car tags. Warren left the area, stating

that he was going to get a poster to use in clean up. He was gone an extremely long time, and the other worker had cleaned the floor during the time he was gone.

Mr. Romine discussed the situation with Mr. Holiman, General Superintendent. Both men agreed that Warren needed to be disciplined for acts of insubordination. Mr. Romine issued another written reprimand that day. Mr. Holiman told Mr. Romine to keep an eye on Warren, because of the problems they were having.

Under the company six-month rule, an employee who receives three written reprimands within a six-month time span would be terminated. Several employees had faced the situation prior to Warren, and had been terminated. Mr. Romine was not aware of the fact that Warren had received two reprimands within six months. Mr. Holiman discovered the fact on November 19, but did not inform Mr. Romine until November 20.

On the morning of November 20, Warren took a 12 minute rest-room break before his regularly scheduled break. He also took another extended break prior to lunch. Mr. Romine said Warren did not inform him of the breaks beforehand; Warren claimed he did. Mr. Romine went to Mr. Holiman with the matter, at which time he learned of the three reprimands and possible termination.

In the afternoon of that day, Warren took an eight minute break in the rest-room. Mr. Romine found Warren in the rest-room, smoking, and reported the fact to Mr. Holiman. Both felt that the only alternative was another written reprimand, and thus termination, for Warren.

### The Company's Position

Mr. Romine and Mr. Holiman both stated that Warren had been an excellent employee up until a certain point. He had developed a negative, irresponsible attitude, which was apparent at work. He had received numerous other reprimands, but not within this six-month period. The incidents in question more than warranted the resulting action.

Other employees had been treated in the same manner in prior instances. The three-reprimand rule was applied to all employees equitably and without prejudice. Any other choice in the matter would have involved showing favoritism toward Warren. This would certainly have opened the company to further liability based on discriminatory actions. The company had no alternative other than termination.

### Warren's Position

Warren admitted to wrong doing when faced with the first two reprimands. He chose to not file grievances for some of the reprimands he had received, but did file in October, 1980.

By his own admission, Warren had forgotten about the reprimand in May, 1981. His only current reprimand, to his recollection, was on November 19. He received no reminder from either Mr. Romine or Mr. Holiman about the one in May, and thus felt he should not have been terminated by the reprimand issued on November 20. This last one came just a few hours before the end of the six-month period from the first reprimand. Warren felt the company did not deal

fairly with him and thus filed the grievance for reinstatement and back pay.



51. 1-2-3 YOU'RE FIRED

1. Did the company create a favorable or unfavorable environment for Warren's continued employment by "keeping an eye on him?"
2. What action should have been taken on November 19? Why?
3. How would you decide in this case? Explain.

