

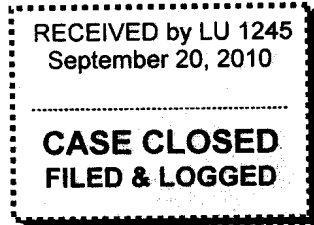


## REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY  
LABOR RELATIONS DEPARTMENT  
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INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, AFL-CIO  
LOCAL UNION 1245, I.B.E.W.  
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VACAVILLE, CALIFORNIA 94696  
(707) 452-2700



JOHN A. MOFFAT, CHAIRMAN  
 DECISION  
 LETTER DECISION  
 PRE-REVIEW REFERRAL

BOB CHOATE, SECRETARY

**Review Committee No. 19293**  
**Arbitration Case No. 297**  
**Energy Delivery – Gas Construction - Vacaville**

Carol Quinney  
Company Member  
Local Investigating Committee

Joe Osterlund  
Union Member  
Local Investigating Committee

Subject of the Grievance

Grievant, a Miscellaneous Equipment Operator, in Gas Construction with 12 years of service was terminated for a second DOT positive test result.

Facts of the Case

The Grievant was a first time positive. The grievant was taken to provide a urine test for drugs and a breathalyzer for alcohol per the DOT regulations.

The grievant provided a urine sample but claimed shy lung for the breathalyzer test. The grievant was scheduled to go for a shy lung evaluation on a Friday which was his regular day off.

The regulations provide for five days in which the Company must schedule a shy lung evaluation with a licensed physician, that is acceptable to the MRO, and who has expertise in the issues raised by the employee's failure to provide a sufficient specimen. Friday was the scheduled appointment day in case any other test needed to be administered at the request of the MRO.

The grievant was to be paid for the time and was being transported to the doctor by a supervisor. The grievant initially agreed to cooperate but when the time came he made himself unavailable.

The grievant was on a return to work agreement as a result of his previous positive test. His failure to cooperate in the shy lung evaluation constituted a second positive under the program guidelines.

Discussion

Union argued the grievant should have been administered a saliva test (ASD) since he was unable to produce a sufficient sample for the breathalyzer. They further argued that the Company should have scheduled the doctor's appointment on the grievant's next regular work day. They argued that the five day DOT requirement is five work days.

Company argued the grievant agreed to be tested on Friday his RDO. The grievant admitted that he did not make himself available for the shy lung test on Friday and this failure to cooperate violated the return to work agreement.

Decision

The grievant's termination is sustained and the parties agreed to close this case with a "compromise and release" signed by the parties and without prejudice.

The Company maintains the position that the termination was for just and sufficient cause and in compliance with the DOT guidelines.

  
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John A. Moffat, Chairman  
Review Committee

9/17/2010  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Bob Choate, Secretary  
Review Committee

9/17/10  
\_\_\_\_\_  
Date