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REVIEW COMMITTEE

PG and E

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R.W. STALCUP, SECRETARY

NOV 16 1984

**CASE CLOSED
LOGGED AND FILED**

RECEIVED NOV 16 1984

D.J. BERGMAN, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

General Construction Grievance No. 3-1278-84-10
P-RC 964

November 16, 1984

MR. R. S. BAIN, Chairman
General Construction
Joint Grievance Committee

MR. MIKE MC KINNEY, Chairman
General Construction
Joint Grievance Committee

The above-subject grievance has been discussed by the Pre-Review Committee prior to its docketing on the agenda of the Review Committee and is being returned, pursuant to Step Five A(i) of the grievance procedure, to the Local Investigating Committee for settlement in accordance with the following:

Facts of the Case

This case concerns a five-day disciplinary layoff given to an Apprentice Electrician for allegedly smoking marijuana at the Geysers. This disciplinary action was taken following an investigation which was conducted by the Company's Security Department, between August 16, 1983, and December 9, 1983. The Security Department arranged for the employment of an undercover operative who was placed on the job, working as a Hydro/Substation Mechanic. During the course of the investigation, the undercover operative monitored the activities of a number of employees and provided to the Security Department both oral and written reports of his observations. The Pre-Review Committee has reviewed at length this case and many others which resulted from the aforementioned investigation.

Discussion

In this case, the undercover operative advised the Security Department that, "approximately two to three weeks prior," he observed the grievant in the company of three other individuals (two of whom were identified as employees and who were also the subject of investigation) during their lunch break where a marijuana cigarette was produced and all took "hits". The Security Department Report indicates that the undercover operative was present during this activity.

November 16, 1984

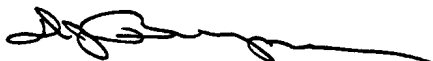
When interviewed by a representative of the Security Department on December 13, 1983, the grievant denied smoking marijuana. At the conclusion of this interview, the grievant returned to work. On December 29, 1983, the grievant was notified that he was being given a five-day disciplinary layoff because "...you were observed smoking marijuana on the job site..." When interviewed by the Local Investigating Committee on February 29, 1984, the grievant again denied smoking marijuana.

The allegation made in this case is imprecise, in that no specific date was given to the Security Department by the undercover operative as to when the alleged marijuana smoking incident occurred. The record simply states that the operative advised that the incident occurred approximately two to three weeks prior to December 11, 1983. The reports compiled on the other employees who were alleged to have participated in this activity with the grievant do not mention any incident around or near that time frame and further, no reported incident involving any other employee mentions the grievant in this case.


Decision

The Pre-Review Committee concludes that the Company did not meet its burden of proof and agrees to restore to the grievant the five-day disciplinary layoff in accordance with Subsection 102.4(a) of the Physical Agreement, rescind the disciplinary letter of December 29, 1983, and remove from the personnel file any and all documents which make reference to this incident.

This case is considered closed based on the foregoing and the adjustments made herein. Such closure should be so noted in the minutes of the Joint Grievance Committee.



D. J. BERGMAN, Chairman
Review Committee



R. W. STALCUP, Secretary
Review Committee

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