

REVIEW COMMITTEE**PG and E****IBEW** 

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R.W. STALCUP, SECRETARY

D.J. BERGMAN, CHAIRMAN

JUN 13 1985

**CASE CLOSED
LOGGED AND FILED**

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

RECEIVED JUN 12 1985

General Construction Grievance 3-1343-84-74
P-RC 1013

June 12, 1985

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

MR. BERRY HUMPHRY, Chairman
General Construction
Joint Grievance Committee

Grievance Issue

Letter of Reprimand, five-and-one-half-day disciplinary layoff and transfer of grievant for failure to follow instructions issued to grievant by supervisor on September 21, 1984.

Facts of the Case

The grievant is a Field Garage Mechanic A in General Construction Mechanical Services Department.

On October 2, 1984, the grievant received a letter of reprimand, a five-and-one-half-day suspension and a transfer from Davis to Petaluma for unavailability for work due to heavy drinking the night before, failure to follow a supervisor's instructions to be examined by a Company doctor, and abuse of sick leave.

On September 20, 1984, the grievant, who was temporarily assigned away from the Davis headquarters on Company business, called the Davis office and reported that he was ill. The grievant rented a room for the night at the Lodi El Rancho Motel, where he had stayed the previous evening. Grievant stated that he went to dinner that evening with friends and that he had two alcoholic beverages with his dinner. On the morning of September 21, 1984, grievant again called the Davis office and stated that he felt well enough to drive the Company vehicle to Yuba City. Grievant did not, however, drive to Yuba City as he said he would, nor did he call the Davis office to report that he was not driving to Yuba City. Grievant returned to the motel room.

During the morning hours between 9:00 a.m. and 11:30 a.m., the PGandE Customer Services office in Lodi received three complaints from the Lodi El Rancho Motel that the grievant would not vacate the motel room. At

approximately 1:40 p.m., the Mechanical Services Supervisor and Superintendent arrived at the motel. The Mechanical Services Supervisor spoke with the grievant about his current condition. The supervisor then requested that the grievant go to a Company panel doctor to be examined for the presence of drugs or alcohol in his system. Grievant indicated that he would submit to examination by a Company doctor and left in the company of a friend.

Grievant did not avail himself of the Company panel physician but instead went to see his personal physician, in Sacramento, who treated him for gastroenteritis and excused him from work until September 24, 1984. The grievant called his foreman later that evening and was instructed to report for work at the Davis Service Center on Monday, September 24, 1984. On September 23, 1984, the grievant visited another doctor who treated him for the same reason and excused him from work for four more days.

On Monday, September 24, 1984, the grievant reported to work at the Davis Service Center. He spoke with the Assistant Superintendent and the Mechanical Services Supervisor. Following this meeting he was sent to a Company panel physician. As part of the physician's examination, a urine sample was taken for the purposes of a drug and alcohol screen. Upon completion of the examination, the grievant returned to the Mechanical Services Supervisor's office. Upon his arrival, grievant was suspended pending the results of the examination.

On Thursday, September 27, 1984, the Company was notified that the tests administered to the grievant's Monday, September 24 urine sample showed no evidence of drugs or alcohol. Grievant was notified to report back to work on Friday, September 28, 1984. Grievant was not paid for the period of September 20 through September 27 with the exception of four hours pay on September 24 while in discussion with the supervisors and being examined by the panel physician.

Discussion

The Union stated that the five-and-one-half-day disciplinary layoff, the transfer and the strongly worded letter of reprimand were unjust and severe for the incident which occurred. Union pointed out that grievant was examined by a physician on September 21 and again on September 23, and in both instances separate physicians concluded that the grievant was ill and unable to work for the period between September 21 and September 26. Union stated that there was no evidence of abuse of sick leave and no evidence of being under the influence of drugs or alcohol. Union further argued that the threat of possible discharge for future unavailability was inappropriate.

The Company stated that the incident warranted the aforementioned discipline, based on the supervisor's responsibility and obligation to ensure the safety of both the employees and Company equipment and that the employee was insubordinate in not availing himself to the Company physician which he agreed to go to for an examination.

Decision

Following extensive examination of the record and discussion of the facts, the Committee agreed that there was justification for some disciplinary

action. The Committee noted that the grievant called in on the morning of September 21, 1984, and reported that he was going to drive the Company vehicle from Lodi to Yuba City. Grievant did not do so, nor did he call the headquarters and report this fact. Additionally, grievant informed the Mechanical Services Supervisor on the afternoon of September 21, 1984, that he would submit to an examination by a Company panel physician. The supervisor arranged for an appointment with a local physician and instructed the grievant to return to the motel following the examination. Grievant did not go to the panel physician, did not inform the supervisor that he was not going to go to the panel physician, and did not return to the motel. The supervisor indicated that he waited at the motel until 5:00 p.m., expecting the grievant to return.

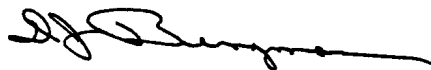
It is noted for the record that Union does not agree that Company has the right to require an employee to submit to a medical examination under the facts as presented in this case, nor, in the Union's opinion, does the Company have the right to discipline an employee who declines a supervisory referral to a panel physician for the purposes of determining the presence of drugs or alcohol. As is established in the Local Investigating Committee Report in this case, the supervisor requested that the employee submit to examination and the employee indicated voluntary concurrence with that request.

Following its review of the facts in this case, the Pre-Review Committee agreed that the disciplinary time off was severe and that the letter of reprimand would be rewritten to more accurately reflect the facts. In addition, the Committee recognized that it is not possible to retroactively rescind the transfer, but Company agreed to make a good faith effort to transfer the grievant to a headquarters closer to his residence as soon as practical.

Based upon the facts presented in this case, the Committee agreed to reduce the disciplinary layoff to two days with the remaining time off to be treated as sick leave.

The disciplinary letter is to be revised to reflect this reduction and to explain the employee's transfer.

This case is closed on the basis of the above adjustments and should be so noted in the minutes of the Joint Grievance Committee.



D. J. BERGMAN, Chairman
Review Committee



R. W. STALCUP, Chairman
Review Committee

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