

7.1 -Discharge for 2nd positive drug test. 2nd positive sample collected while on Comp.



REVIEW COMMITTEE

IBEW



SEP - 3 1993

PACIFIC GAS AND ELECTRIC COMPANY
201 MISSION STREET, 1513A
SAN FRANCISCO, CALIFORNIA 94105
(415) 973-1125

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 4790
WALNUT CREEK, CALIFORNIA 94596
(415) 933-6060
R.W. STALCUP, SECRETARY

**CASE CLOSED
LOGGED AND FILED**

D.J. BERGMAN, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

RECEIVED SEP - 3 1993
August 20, 1993

Pre-Review Committee File No. 1652
ENCON (General Construction)
Grievance No. 3-2394-92-100

Bill McLoughlin, Company Member
Local Investigating Committee

Ron Van Dyke, Union Member
Local Investigating Committee

Grievance Issue: Discharge of a Backhoe Operator as a result of a second positive under the Drug Free Pipeline Program.

Facts of the Case: On March 31, 1992 the grievant tested positive under the DOT Drug Free Pipeline Program and received a Written Reminder. The grievant was also placed in a rehabilitation program. On April 16, 1992, the grievant signed a "DOT Return to Work Agreement" which subjected him to post rehabilitation drug testing. The Company was notified by the MRO (Medical Review Officer) that the grievant would be on a twice a month post-rehab testing schedule.

On June 29, the grievant was given a letter stating the conditions of his employment following the first positive drug test. The grievant was tested twice in July, twice in August three times in September, one test being a retest, missed two tests in October and was tested on November 18.

On September 3, 1992, the grievant was placed on Compensation payroll. On September 9, the grievant was sent a letter from the MRO putting the grievant on Notice of Non-Compliance for failing to go to his September 2, Post-Rehab test.

On October 29, 1992, the Company received notice from the treating physician for the grievant's industrial injury returning the grievant to full duty as of September 21, 1992.

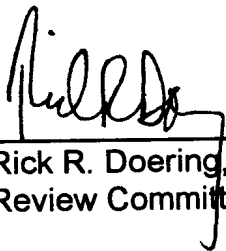
On November 23, 1992, the grievant was issued a Decision Making Leave for his failure to keep a "post-rehab" testing appointment on September 3, 1991². November 24, he was off for the Decision Making Leave day. On November 25, he was suspended.

On December 9, 1992, the grievant was discharged for second positive effective November 25, 1992, following the results of the split sample.

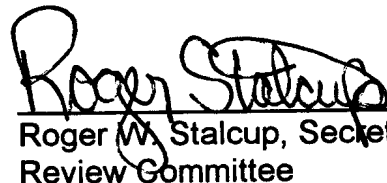
Discussion: The grievant was tested on four occasions while on compensation payroll without protest. The Union maintained the argument that the grievant should have been unavailable and should not have been tested. The Committee agrees that in this case the grievant was available and was tested for post-rehab, and returned to work drug testing. The split sample was tested with the same positive result.

The Union maintains the position to argue in the future the question of availability and that the item 4 Appendix G of the Drug Free Pipeline Program is not all inclusive. Company maintained the position that the post-rehab test and the return to work testing was done appropriately.

Disposition: The Committee agrees that samples were provided without protest and based on the finding the discharge was for just cause due to the violation of Drug Free Pipeline Program.



Rick R. Doering, Chairman
Review Committee



Roger W. Stalcup, Secretary
Review Committee