



REVIEW COMMITTEE

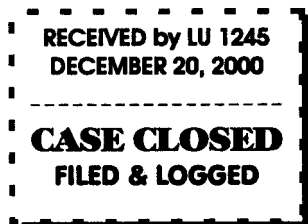
IBEW



PACIFIC GAS AND ELECTRIC COMPANY
2850 SHADELANDS DRIVE, SUITE 100
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(925) 974-4282

MARGARET A. SHORT, CHAIRMAN

DECISION
LETTER DECISION
PRE-REVIEW REFERRAL



INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 4790
WALNUT CREEK, CALIFORNIA 94596
(925) 933-6060
BOB CHOATE, SECRETARY

Pre-Review Committee No. 11173

Deanna Radford
Company Member
Local Investigating Committee

Lula Washington
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the discharge of a Garageman from the Oakport garage for violation of his Last Chance Agreement for First Time Violators of Company's Drug Prohibitions - Non-DOT program.

Facts of the Case

The grievant was hired January 8, 1980 as an Equipment Mechanic and was demoted to Garageman effective April 26, 1983. He was discharged effective September 15, 1999.

On August 24, 1999 the grievant appeared unfit for work to the supervisor. He was taken to a hospital emergency room where he submitted to a Fitness for Duty examination which included giving a urine specimen. The results were positive for drugs which may be prescribed.

By letter dated September 14, 1999 EAP notified Human Resources that:

"According to his agreement to comply with treatment at Merritt Peralta Institute, the presence of these substances constituted a violation of his treatment agreement...treatment specifically restricted the use of these types of prescription drugs."

At the time of his discharge the grievant was on a Written Reminder in the Conduct Category dated April 12, 1999 for appearing unfit and refusing to submit to a Fitness for Duty examination on January 29, 1999. The grievant also had an active Oral Reminder for being unfit for work on December 11, 1998. In that instance he was taken for a Fitness for Duty examination.

While the record does not state so, it is presumed that the grievant was off work and receiving medical treatment from right after the January 29, 1999 incident until April 5, 1999 since that is when the grievant signed the Last Chance Agreement which is usually a return to work agreement. Of particular note in the Last Chance Agreement are Items 5 and 10. They state respectively,:

"I am responsible for ensuring that the treatment facility/program provides the Company with the necessary documentation to establish my compliance with my rehabilitation obligation."

"I will be required to submit to no more than four random urine tests within a year period from the date of this agreement after completing the appropriate release of medical information forms. A positive result from the drug test will result in my immediate discharge."

Discussion

Union expressed concern that the Last Chance Agreement addresses illegal drugs but does not prohibit prescribed drugs. Union also expressed concern that no Chain of Custody form was provided by Company.

Company responded that the Company - Union understanding concerning Fitness For Duty examinations resulted from the prohibitions in Standard Practice 735.6-1, Employee Conduct. Page 8, Item F5. Specifically states:

"Using, without proper notification of supervision, or **misusing any medications or prescription drugs**, which significantly affect employee's ability to safely and efficiently perform his/her assignment." (emphasis added)

Company opined that this employee had been unfit for work three times within a nine month period and that for the safety of all employees, such behavior cannot be tolerated. He was afforded an opportunity to correct the behavior and had been more than adequately warned of the consequence of continued misconduct. Further, the grievant was insubordinate when he refused to go for a Fitness for Duty examination on January 29, 1999.

Company agreed to discuss revising the Last Chance Agreement with the Union to clarify that it may apply to misuse of prescription drugs.

Decision

The PRC is in agreement that the grievant was discharged for just cause. This case is considered closed.

Margaret Short

Margaret A. Short, Chairman
Review Committee

12/20/00

Date

Sam A. Tamimi

Sam Tamimi, Secretary
Review Committee

Dec. 20-2000

Date