



REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY
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**CASE CLOSED
FILED & LOGGED**

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
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WALNUT CREEK, CALIFORNIA 94596
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SALIM A. TAMIMI, SECRETARY

MARGARET A. SHORT, CHAIRMAN

DECISION
LETTER DECISION
PRE-REVIEW REFERRAL

Pre-Review Committee No. 12434

Melanie Currie
Company Member
Local Investigating Committee

Dan Lockwood
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the discharge of a Utility Worker, Mechanical Maintenance, DCPD.

Facts of the Case

The Grievant was discharged when her security access to the protected area of the Diablo Canyon Power Plant was revoked for failing to adhere to the recommendations of the Medical Review Officer (MRO). In July of 2000, the grievant was displaced to Diablo Canyon Power Plant from Morro Bay Power Plant where she was a Control Operator. Security access to the protected area is a requirement of her job at DCPD.

The grievant was granted security access, but because of previous substance abuse she was placed on certain requirements by the MRO. She was to refrain from the use of illegal drugs, attend monthly meetings with an EAP counselor, and be subject to follow-up drug and alcohol testing. She adhered to these conditions and in early January 2001, the MRO told her he was going to lift the special requirement placed on her security access.

On January 16, 2001, the grievant received a DUI. As required, she reported the arrest to the Access Department Supervisor who in turn suspended her access and referred her to the MRO for evaluation. The MRO reinstated her security access with her written agreement that she would 1) abstain from alcohol and illegal drug use; 2) contact a substance abuse treatment center to be evaluated and receive treatment; 3) attend monthly meetings with an EAP counselor; and 4) be subject to follow-up drug and alcohol treatment. The grievant signed a statement agreeing to these conditions and acknowledging that she would have her security access revoked for up to a three-year period for failure to adhere to the conditions. She returned to work.

The grievant contacted a treatment provider the following day but did not agree with their treatment recommendation. She contacted EAP and was referred to another treatment provider for evaluation. This treatment provider also recommended in-patient treatment. The grievant was to be admitted to the in-patient program on February 9.

However, on January 30, the grievant was tested as part of the follow-up testing program. She registered an amount for alcohol (less than what is considered a positive test) and admitted that she had consumed alcohol the prior evening. As this was in violation of the MRO recommendation, her security access was revoked for a three-year period. She was then discharged.

Discussion

The Company maintained that the discharge was appropriate as the grievant's security access had been revoked and she could therefore not perform the duties of her job. The grievant's access had been restored in January following the DUI arrest with one of the clear conditions being that she refrain from alcohol use. She signed a statement acknowledging this as a condition of her return to work. If she believed she would be unable to meet the conditions of her return to work, she could have requested sick leave until such time as she was enrolled in a treatment program and felt more comfortable.

The Union argued that one of the symptoms of substance abuse is denial. The grievant had been truthful with the Company by reporting the DUI arrest and also by admitting to consuming alcohol even though the test result was not considered positive by plant procedures. The Union argued that she should not have been allowed to return to work by the MRO until such time as she was enrolled in a rehabilitation program, had demonstrated commitment and progress toward sobriety.

Decision

The Pre-Review Committee agreed the conditions placed on the grievant's return to work were consistent with the agreed-to NPG Fitness for Duty Program. The Committee also noted that prior to returning to work, the grievant had signed a statement acknowledging the conditions and the consequences of failure to adhere to those conditions.

The Pre-Review Committee noted that loss of access to the protected areas of DCPD has been and continues to be just cause for discharge. There is a separate Company appeals process for access denial. The grievant did appeal her loss of access but the denial was upheld.

Company and Union attempted to resolve this case by giving the grievant consideration for existing vacancies. In July 2001, she took and passed the Operator-in-Training entrance test. In September, she and several other candidates were interviewed for an OIT vacancy in San Luis Obispo; however, she was not selected. In October, Company offered to place the grievant in a vacant Utility Worker in San Jose. The grievant declined this offer. The parties reviewed the list of vacancies within a commutable distance of DCPD at least three times and there were no other vacancies for which the grievant qualified.

The agreement Company and Union have concerning the administration of the NRC drug and alcohol testing program contains the statement:

"An employee who loses DCPD site access for three years and is terminated because of a second positive for illegal drugs, where no on-the-job impairment is apparent, will be considered eligible for rehire as soon as evidence of completion of an acceptable rehabilitation program is provided to the Company."

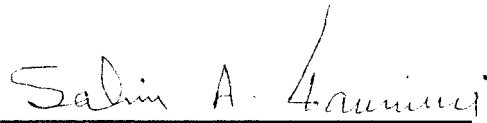
While the above language is not directly applicable to the grievant's situation, it does provide a basis for closure of this case. Effective immediately or subsequent to February 2004 for DCPD, Company will consider the grievant eligible for rehire and/or the HH, subject to proof of the grievant's continued sobriety. This is not to be construed as an obligation or requirement to rehire.

This case is closed on the basis of the foregoing and is without prejudice to the position of either party.



Margaret A. Short, Chairman
Review Committee

11/28/01
Date



Sam Tamimi, Secretary
Review Committee

11-28-01
Date