

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

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INTERNATIONAL BROTHERHOOD OF
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R.W. STALCUP, SECRETARY

D.J. BERGMAN, CHAIRMAN

REVIEW COMMITTEE DECISION

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

Stockton Division Grievance No. 16-208-82-3
Review Committee File No. 1547-82-17

**CASE CLOSED
LOGGED AND FILED**

MAY 17 1983

Statement of Facts

This case concerns the December 21, 1981 Stockton Division policy regarding the wearing of seat belts. The policy provides, in part, that violations of Accident Prevention Rule No. 37(g), regarding the use of seat belts, will result in a minimum of three days off without pay. Union requested that Company cease and desist the implementation of this letter.

Discussion

Considerable discussion between the parties ensued over the implementing of this grieved policy. The Union claimed that the November 1, 1962 Stockton Division Seat Belt Policy was sufficient to cover Company's concerns and that there was no demonstration that not wearing seat belts has been a problem over the years. The Union also argued that the record in this case does not demonstrate that other potentially hazardous safety violations have resulted in three days off without pay for a first offense. In addition, the Union claimed that the policy was unreasonable and inflexible. The Company maintained that it was not necessary to show that there had been a continuing problem with regard to the wearing of seat belts and expressed that the new policy in Stockton Division was a result of a recent fatality in the Division, where seat belts were not worn. The Company believes that the potential for injury to employees is so great that severe sanctions must be imposed to impress on all employees the need to follow this rather basic rule.

While the parties recognize that Section 7.1 of the Physical Agreement clearly outlines the authorities of the Company to establish rules which it deems are reasonably related to the operation of the Company's business, they also recognize that such rules and policies are subject to challenge by the Union. Initially, Company argued that Union cannot grieve a new or revised policy when no employee has been adversely affected by the new or revised policy. In this particular case, there is no showing that anyone has been disciplined under the rule. The Union expressed concern that, if in the future discipline is meted out as a result of a violation of the seat belt policy, the Union would be estopped from grieving the application of discipline because of acquiescence. The Union cited Arbitration Case No. 51 in which Arbitrator John Kagel ruled that the Union must grieve a rule or policy at the time it becomes aware of the rule or policy's existence or it is precluded from grieving the application.

With respect to disciplinary action to be taken under this rule, however, this Committee recognizes that each seat belt policy violation may not justify the

arbitrary application of the three days off. Whether or not the discipline is deemed to be justified will depend on all of the circumstances involved. Each individual situation where the rule is exercised will be judged on its own merits to determine whether or not the penalty is consistent with the nature of the infraction.

On February 24, 1983, the Manager of Stockton Division issued a letter which in effect returned the seat belt policy to its former application as identified in the November 1, 1962 letter from the then Stockton Division Manager.

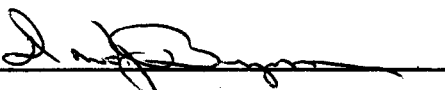
Decision

The Review Committee believes that the reissuing of the seat belt policy letter on February 24, 1983, omitting any reference to predetermined discipline, has answered the issue in this case.

On that basis, this case is closed.

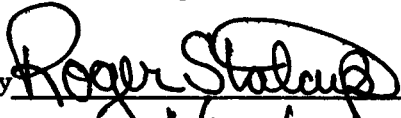
FOR COMPANY:

- L. C. Beanland
- F. C. Buchholz
- J. B. Stoutamore
- D. J. Bergman

By 
 Date 5-3-83

FOR UNION:

- G. W. Abrahamson
- R. L. Choate
- P. Pelucca
- R. W. Stalcup

By 
 Date 4/29/83