

REVIEW COMMITTEE

7.1 (P)

PG and E**IBEW** 

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**CASE CLOSED
 LOGGED AND FILED**

DEC
 5 1984

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

RECEIVED DEC 4 1984

RC Decisions Nos. 1593, 1594, 1595, 1596 and 1597

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

MR. MIKE MC KINNEY, Chairman
 General Construction
 Joint Grievance Committee

Subject of the Grievance

These cases involve the discharge of five General Construction employees for violating Standard Practice 735.6-1.

Facts of the Cases

These case concerns the discharge of five employees for alleged incidents of selling illegal controlled substances (cocaine, marijuana and methamphetamine), consuming alcohol, smoking marijuana, providing alcohol or marijuana to other employees, consuming and providing benzedrine tablets to other employees, removal of Company property for personal use and misuse of paid time and Company equipment. The discharges occurred following an investigation which was conducted by the Company's Security Department, between August 16, 1983 and December 9, 1983. The Security Department arranged for the employment of an undercover operative who was placed on the job working as a Hydro/Substation Mechanic. During the course of the investigation, the undercover operative monitored the activities of a number of employees and provided to the Security Department both oral and written reports of his observations. The Committee has reviewed a considerable volume of documents and discussed, at length, these cases and many others which resulted from the aforementioned investigation. Specifically, the Company alleged the following in each case:

- 1593 - (1) On November 10, 1983, sold one gram of cocaine to the undercover operative.
- (2) Several occasions of drinking beer and/or smoking marijuana.
- (3) Removal of Company property for personal use.
- (4) Use of Company time and equipment to construct a wheel puller for personal vehicle.

The grievant, a Hydro/Station Mechanic, had approximately six-and-one-half months of service at the time of discharge. He admitted the foregoing except that he stated he had permission from a Working Foreman and a Subforeman to remove the Company property.

- 1594 - (1) On November 22, 1983, sold one-half ounce of marijuana to the undercover operative.
- (2) On December 9, 1983, consumed and provided benzedrine tablets to other employees.
- (3) Smoking marijuana on several occasions.
- (4) Drinking alcoholic beverages (beer and brandy).

The grievant, a seven-month Hydro/Station Mechanic, denied everything.

- 1595 - (1) On November 14, 1983, sold one-fourth ounce of sinsemilla (seedless marijuana) to the undercover operative.
- (2) Several instances of smoking marijuana.
- (3) Providing marijuana for others to smoke.
- (4) Drinking beer.
- (5) Providing referrals for the sale of marijuana and methamphetamine.

The grievant a 10-3/4 year Welder, initially denied all of the above. He ultimately admitted selling marijuana but stated that the transaction took place off Company property and after working hours.

- 1596 - (1) On December 8, 1983, sold two grams of methamphetamine powder (speed) to the undercover operative.
- (2) Several occasions of drinking beer.
- (3) One occasion of leaving the job site in Company vehicle with a group of other employees. He purchased beer which was drunk on the return trip by the group.

The grievant, a 10-3/4 year Hydro/Station Mechanic, admitted all of the above.

- 1597 - (1) On December 6, 1983, sold approximately one-half ounce of marijuana to the undercover operative.
- (2) Drinking beer.
- (3) Left the job site to purchase beer, brought it back to pass around to other employees.

The grievant, a six-month Hydro/Station Mechanic, denied everything.

Discussion

During the four-month investigation, the activities of the undercover operative hired by the Company to work as a Hydro/Station Mechanic were directed by and coordinated through the Company Security Department and the Lake County Sheriff's Department. All of the drug sales were made to the operative who tape recorded each one. The evidence in each instance was turned over to the Sheriff's Department, where it was tested and confirmed to be a controlled substance.

Only one of the grievants (1596) had any prior disciplinary history. It was several years old and not a consideration in making the decision to discharge.

This investigation culminated in two additional discharges, which were not grieved, and disciplinary layoffs for sixteen other employees. Eleven of the time-off cases were grieved. Consequently, at the various steps of the grievance procedure, the parties engaged in many lengthy discussions about these cases. A substantial amount of time was spent examining reams of documents to substantiate the allegations and observations by the operative, particularly in those cases where the employees denied the allegations. The Pre-Review Committee journeyed to the Geysers to inspect the various locations of the cited incidents. Following the Geysers tour, the Committee interviewed the two officers in the Lake County Sheriff's Department who were responsible for coaching and directing the activities of the operative, and, finally, the Review Committee listened to the tape recordings of the alleged sales.

Decision

The Review Committee concluded that an exhaustive review of all the facts had been conducted by the parties. While there are numerous discrepancies and conflicting testimony with regard to many of the alleged incidents, and notwithstanding the denials of some of the grievants, in the opinion of the Review Committee the evidence concerning the drug sales is convincing, based on the handwritten reports submitted by the operative detailing the events preceding the transactions and the actual transactions, the tape recordings of the transactions, and the chain of evidence documents which were prepared in conjunction with each transaction. With respect to the grievant in Case No. 1595, the Review Committee concluded that he lacked credibility. The grievant initially denied the sale of marijuana and stated he did not remember being involved in any other incident. He later admitted the sale of marijuana, but said the sale took place off the job site and after working hours. The evidence and testimony clearly supports the allegations of his involvement in other beer drinking or marijuana smoking incidents.

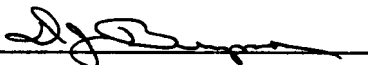
In the final analysis, the Review Committee is in agreement that the discharges based on the sale of controlled substances at a work site or during working hours were for just and sufficient cause and are analogous to those

offenses listed in Review Committee Nos. 1451 and 1452 as dischargeable without regard to mitigating circumstances. In these cases, the Review Committee is convinced that the sales did occur.

These cases are closed without adjustment.

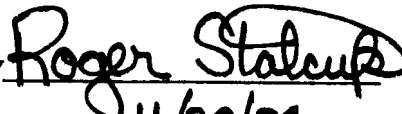
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