



REVIEW COMMITTEE

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7.1: Discharge of AO reversed. Prior to issuance of discipline for one action another occurred. co. disciplined w/ DML for first action, then discharged for second. Sandbag.

IBEW



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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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R.W. STALCUP, SECRETARY

MARGARET A. SHORT, CHAIRMAN

**REVIEW COMMITTEE FILE NO. 1774
(Arbitration Case No. 206)**

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

Subject of the Grievance

This case concerns the discharge of an Assistant Control Operator at Pittsburg Power Plant for the totality of his work record.

Facts of the Case

This grievant was discharged March 25, 1994. The grievant was hired as Auxiliary Operator on December 1, 1980, became a Relief Auxiliary Operator in 1985, and was temporarily upgraded to Assistant Control Operator from March 29, 1993 until his discharge.

The grievant received a Decision Making Leave on March 22, 1994 for failure to properly carry out his job responsibilities, failure to respond to repeated directions from the Control Operator, and for demonstrating a lack of urgency to perform critical work assignments. This DML resulted from an incident which occurred February 2, 1994 when there was a forced outage on Unit 1 at Pittsburg Power Plant. The forced outage was due to boiler tube leaks resulting from short-term overheating caused by the grievant's improper operation of the boiler. The estimated damages were \$1 million.

Following the grievant's return from the DML, a confirming letter to him was issued March 24, 1994 which stated his decision to continue his employment and commitment to change. It further stated "I am pleased that you have decided to continue your employment with us. Your years of service is of value to this company." On the same day, March 24, 1994, a meeting was held with the grievant to discuss his misconduct occurring on March 19, 1994. Specifically, using profanity to a supervisor, disrespect to another supervisor, making threatening comments, failure to follow proper procedures for reporting an injury. These incidents, known at the time of the time of the investigation into the boiler incident and before the issuance of the DML. The events of March 19, 1994 precipitated his discharge the day after returning from the DML and the issuance of the return to work/recommitment letter.

At the time of the DML the grievant had an active Oral Reminder issued July 22, 1993, an active Written Reminder issued September 13, 1993, and an active coaching and counseling on December 22, 1993. All were in the attendance category.

(10/10/95)
C-1111-1-1


Decision

This case was referred through the various steps of the grievance procedure to arbitration. Prior to the arbitration hearing, the parties agreed to settle the case by reinstating the grievant as a Plant Assistant at the Gas and Electric Meter shop in Fremont, by granting an equity settlement of \$3000 in partial retroactive wages, and with benefits intact except for the vacation forfeiture as provided in Subsection 111.5(a). The grievant was not returned to Pittsburgh Power Plant because during his absence, displacements occurred pursuant to the application of Title 206. The grievant's position would have been affected and he would have received Title 206 options. It was further agreed that if the Meter Shop is beyond a commutable distance from his residence, he will be eligible for the moving allowance in Section 206.8.

The parties are in agreement that this employee has a very poor employment record, that appropriate attempts were made to refer him to the Employee Assistance Program, that discipline was clearly appropriate for all of his actions. However, the discharging of the grievant following the DML when the triggering events for the discharge were known prior to the DML bordered on double jeopardy and did not provide the grievant with a window of opportunity to correct his behavior which is the intent behind the disciplinary process. It would have been appropriate to have discharged the grievant for the events on February 2, 1994 and March 19, 1994 and bypass the DML step.

The grievant's reinstatement is at the DML step effective with his date of return.

This case is closed based on the adjustment contained herein.



Margaret A. Short, Chairman
Review Committee

10/10/95

Date



Roger W. Stalcup, Secretary
Review Committee

10/10/95

Date