



REVIEW COMMITTEE

IBEW



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INTERNATIONAL BROTHERHOOD OF
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DOUG VEADER, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

RECEIVED by LU 1245
October 26, 2011

**CASE CLOSED
FILED & LOGGED**

F. E. (ED) DWYER Jr, SECRETARY

Review Committee Nos. 20526 & 20527 Information Technology - GC Telecommunications - Davis

Marlene Brock
Company Member
Local Investigating Committee

Mike Saner
Union Member
Local Investigating Committee

Subject of the Grievances

These grievances concern the discharges of two employees for driving a Company vehicle after consuming a beer.

Facts of the Case

The grievant in RC 20526 is an Apprentice Telecommunications Technician with a hire date of March 23, 2009. The grievant in RC 20527 is a Telecommunications Technician with a hire date of January 6, 1997. It was reported to the Company that the employees were observed drinking a beer at a restaurant and then driving Company vehicles.

During the investigative interview, the grievants indicated they had completed work at approximately 7:30 p.m. and then drove their assigned Company vehicles to the restaurant. They each had one beer with dinner and then drove to their hotel in their assigned vehicles. Each grievant stated they believed they did not violate the alcohol policy as they were on per diem, driving their assigned vehicles after being dismissed from work, and complying with all vehicle laws.

One grievant claimed that during two 2009 after-hour Company sponsored events, management allowed employees to consume alcohol and then drive Company vehicles. The grievant stated that at one event, the former Director purchased dinner which included a drink and was aware that he was travelling in a Company vehicle. In another event hosted by the Company, the same grievant stated he and other crew leads had drinks in the bar before dinner. According to the grievant, supervision was present and was aware that the employees were in Company vehicles. When he told his supervisor he was leaving to drive to his hotel, he was told to drive safely.

In response to the above assertions, the grievant's supervisor indicated that there was an acknowledgement dinner hosted by the Company and that alcohol was consumed. It was his understanding, however, that all employees were lodging at the hotel on the property and that nobody would be driving. He does not recall whether the grievant had a drink and does not recall speaking to the grievant when he was getting ready to leave. The former Director could not be reached to respond to the other assertion.

The Code of Conduct was updated and communicated to employees in the summer of 2010. Included in the update was an emphasis on certain conduct violations which would automatically

result in discharge. Alcohol policy violations are one of the offenses listed which will result in discharge. The grievants' work group was tail-boarded on the revised Code of Conduct three months before the discharges.

Neither grievant physically attended the 2010 Code of Conduct tail-board. They were given permission to listen in on a speaker phone to the meeting and advised to pick up their copy of the Code of Conduct. The employees indicated that it was difficult to hear what was said. Both grievants indicated they were not sure they picked up the Code of Conduct. The record sheet maintained by the department administrative staff indicated that neither employee received a copy.

Discussion

The Company argued that it has never been acceptable to drink and drive a Company vehicle. Since 2008, the Company has communicated that violations of the alcohol policy will result in discharge. Additionally, despite the grievants' contentions, the record does not confirm that the Company knowingly allowed employees to drink and drive Company vehicles.

In regard to the penalty, the Union argued that until the 2010 Code of Conduct revision and communication employees were not properly advised that alcohol violations will result in termination. Before then, it was not clear that alcohol violations would automatically result in discharge. In fact, the November 12, 2008 PG&E@Work Bulletin stated that "alcohol policy violations may result in disciplinary action or termination."

In regard to the rule, the Union pointed out that the Company records show that neither employee received the 2010 Code of Conduct. Additionally, having employees listen in on a speaker phone is not a sufficient means of communicating something as important as the Code of Conduct. Finally, given the circumstances surrounding the two Company sponsored events, it is reasonable to believe that the grievant's honest thought they were following the rules.

This Committee discussed that while the Code of Conduct is clear that violations of the alcohol policy will result in termination, given all the circumstances surrounding this situation, there is sufficient question as to whether the grievants were properly noticed regarding the application of the rule to their situation and the absolute discharge penalty.

Decision

The Committee agrees to settle this grievance by reinstating the grievants under the conditions listed below. This settlement is based on the specific facts in this case and does not set precedence for any other grievances.

- Placed on DML step of Positive Discipline
- No back pay
- Benefits reinstated prospectively
- Discharge time not considered a break in service under Titles 106 and 111

For the Company:

Doug Veader
 Laura Sellheim
 Ruben Ramirez
 Mike Savage

By: Doug Veader
 Date: 10/25/11

For the Union:

F.E. (Ed) Dwyer Jr.
 James Brager
 Michael Scafani
 Karen Russell

By: [Signature]
 Date: 10/25/2011