

REVIEW COMMITTEE**PG and E**PACIFIC GAS AND ELECTRIC COMPANY
245 MARKET STREET, ROOM 444
SAN FRANCISCO, CALIFORNIA 94106
(415) 781-4211, EXTENSION 1125

D.J. BERGMAN, CHAIRMAN

- DECISION
 LETTER DECISION
 PRE-REVIEW REFERRAL

DEC 14 1987
**CASE CLOSED
 LOGGED AND FILED**

RECEIVED DEC 3 1987General Construction Grievance No. 3-1692-87-54
P-RC 1218

December 2, 1987

PHIL G. DAMASK, Chairman
 General Construction
 Local Investigating Committee

BARRY J. HUMPHREY, Chairman
 General Construction
 Local Investigating Committee

IBEW INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 4790
WALNUT CREEK, CALIFORNIA 94596
(415) 933-6060
R.W. STALCUP, SECRETARYSubject of Grievance

Discharge of Miscellaneous Equipment Operator "B" for unavailability.

Facts of the Case

The grievant was hired April 16, 1985. The grievant's record of unavailability is:

	Off Personal/No Pay Without Permission	Off Personal/No Pay With Permission	Off Sick With Pay	Off Sick Without Pay
1985				12.5
1986	8	16	64	74
1987	<u>35</u>	—	<u>16</u>	—
Total	43	16	80	86.5

During the first twelve months of the grievant's employment, there were no performance or attendance problems.

Beginning in April 1986, the grievant began experiencing attendance and performance problems. On November 21, 1986, the grievant received a written reprimand for unavailability. Also, the grievant had been sent for fitness for duty examination on October 23, 1986 when his supervisors believed he was unfit for duty. The examination determined that the grievant was fit for duty. The grievant received another letter on February 2, 1987 for unavailability and unsatisfactory performance. The February 2, 1987 letter indicated that the grievant had received another letter on January 12, 1987; however, neither the Company nor the grievant could provide a copy to the Committee.

The grievant had availed himself of the Employment Assistance Program on an intermittent basis since Fall '86, at which time it was recommended by EAP that he utilize a rehabilitation program for his problem. The Supervisor was not aware of what specific problem was causing the grievant's unavailability.

On Friday, March 20, 1987, the grievant was off work without permission and pay. On Monday, March 23, the grievant reported for work which was a rainout/inclement weather day. On that day, the grievant was counselled regarding his absence the previous Friday and was told in no uncertain terms that if he missed any more time he would be discharged. Payroll records confirm that he worked Tuesday, March 24 notwithstanding conflicting testimony in the Local Investigating Committee report indicating he was again off without permission or pay that day.

On Wednesday, March 25, 1987, the grievant entered a rehabilitation program. The grievant failed to call in that day and called the EAP representative the morning of Thursday, March 26 to inform him that he was in the program. Grievant assumed the EAP representative would contact his supervisor.

The Company decided to discharge the grievant based on his cumulative record of which the "trigger event" was his absence on Wednesday, March 25, 1987.

Discussion

The Union member of the Committee opined that the grievant should not have been discharged since he was enrolled in a bona fide rehabilitation program. Union further stated that the Company regularly affords employees leaves of absence to attend similar programs.

The Company argued that the proper progressive disciplinary steps had been carefully followed and that the Company did not know the grievant was in a rehabilitation program until after the decision was made to discharge him.

Decision

The Committee carefully reviewed the facts in this case and noted that the precipitating incident in the grievant's discharge was his absence the day he enrolled in the rehabilitation program. Said enrollment was confirmed in a letter from the program. Employees are encouraged to remedy any personal problems that may be affecting their work performance. While the Committee agrees that the grievant would have been well advised to seek rehabilitation prior to being on the verge of discharge, the Committee recognizes that the grievant did enroll. The Committee is disturbed by the grievant's failure to contact his supervisor on March 25, 1987 in order to provide notification of his absence. The Committee agrees that was grievant's responsibility.

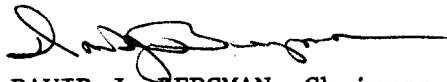
In recognition of the particular facts in this case, the Committee agreed on an equity, non-prejudicial basis that the grievant will be reinstated provided, as a condition of returning to work, the grievant submits to the Company's pre-employment drug/alcohol screening procedure. If the grievant fails the screening, the discharge will be sustained.

If the grievant passes the screening, he will be reinstated without backpay with the condition that he is required to make contact with an EAP representative for the purpose of determining whether an aftercare program is appropriate. If so determined by EAP, the grievant's active participation and satisfactory completion in such program will be a condition of continued employment. This condition shall expire one year after grievant's return to work.

Also, as a condition of continued employment, immediately upon returning to work the grievant must maintain a satisfactory attendance and performance record. The March 31, 1987 discharge letter is to be rewritten effective the date of grievant's return to work whereby the most stringent condition precedent of a final warning will apply.

The grievant's recourse to the grievance procedure, with regard to availability and performance will be limited specifically to determination of whether the incident(s) occurred.

Based on the foregoing, this case is closed without prejudice to either parties' positions, and should be so noted in the Joint Grievance Committee minutes.



DAVID J. BERGMAN, Chairman
Review Committee



ROGER W. STALCUP, Secretary
Review Committee

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