

7.1 -Just cause for dischg:
2nd positive, DOT drug
screen.



REVIEW COMMITTEE

IBEW



PACIFIC GAS AND ELECTRIC COMPANY
201 MISSION STREET, 1513A
SAN FRANCISCO, CALIFORNIA 94105
(415) 973-1125

OCT 29 1992

**CASE CLOSED
LOGGED AND FILED**

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, SECRETARY

D.J. BERGMAN, CHAIRMAN

RECEIVED OCT 20 1992

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

Kern Division Grievance No. KERN-91-16
P-RC 1581

September 15, 1992

**BILL MATTOX, Company Member
Kern Division
Local Investigating Committee**

**MANNY GUZMAN, Union Member
Kern Division
Local Investigating Committee**

Subject of the Grievance:

The grievant was discharged due to a second verified positive test for illegal drugs in accordance with the First Time Offender Agreement and Letter Agreement R4-87-55.

Facts of the Case:

The grievant was a Parts Clerk in Bakersfield with over 20 years of service. The grievant had previously tested positive for illegal drug use and enrolled in a rehabilitation program in 1989. In a written First Time Offender Agreement dated March 21, 1989, the grievant agreed to a final warning, "any future violation of Company drug prohibition (S.P. 735.6-1) shall result in immediate discharge."

In September 1991 two Company supervisors observed the grievant at a meeting and noticed that his speech was slurred and exceptionally slow. The employee complained of exhaust fumes and carbon monoxide poisoning at the meeting. After the meeting he was taken for a fitness for duty examination which included a drug test. The urine sample provided by the grievant was forwarded to Pharm Chem, but was rejected since it did not have a bar code number. A second fitness for duty test was scheduled six days later. A urine sample taken at this exam tested positive for three illegal drugs. The grievant was subsequently discharged.

Discussion:

The Union expressed concern that the supervisors did not advise the grievant that he was being referred for a fitness for duty test due to their suspicion that he was unfit for duty due to drug use. The grievant believed he was referred for evaluation due to his complaint about exhaust fumes in the garage.

Company responded that supervision simply advised the employee that they were referring him for a fitness for duty evaluation. Supervision did not speculate why the grievant may have been unfit and deferred the evaluation to a medical professional.

The Union also questioned the Company scheduling a second fitness for duty exam six days after the initial exam since there had not been any reasonable cause to trigger the second exam.

Company responded that a second exam was scheduled since there were still questions regarding the employee's fitness for duty. The results of the second exam indicated the employee tested positive for three illegal drugs.

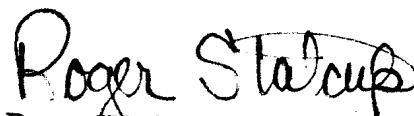
Decision:

The Company and the Union agree to uphold the discharge of the grievant due to his violation of a March 21, 1989 First Time Offender agreement which provides that "any future violation of Company drug prohibition (SP 735.6-1) shall result in immediate discharge".

This case is considered closed on the basis of the foregoing, and such closure should be so noted by the Local Investigating Committee.



David J. Bergman, Chairman
Review Committee



Roger W. Stalcup, Secretary
Review Committee