



REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY
LABOR RELATIONS DEPARTMENT
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JOHN MOFFAT, CHAIRMAN

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

RECEIVED by LU 1245
October 1, 2009

CASE CLOSED
FILED & LOGGED

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
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VACAVILLE, CALIFORNIA 94696
(707) 452-2700

BOB CHOATE, SECRETARY

Pre-Review Committee No. 19129 Energy Delivery – Electric T&D Lakeville

Carol Quinney
Company Member
Local investigating Committee

Joe Osterlund
Union Member
Local Investigating Committee

Subject of the Grievance:

The discharge of a Transmission Troublemancer for possession of a marijuana butt in his Company vehicle and for having pornographic images and text messages stored on his Company cell phone.

Facts of the Case:

The Grievant is a Transmission Troublemancer with 23 years of service.

The Grievant traveled to San Ramon on Sunday evening to attend a Monday morning training class. The Grievant arrived in San Ramon around 1 a.m. He parked his truck and didn't access it again. He stated the truck was locked.

Monday the Grievant went to class and at lunch he went back to his room.

On Tuesday the Supervisor received a call from his superintendent stating that there was a suspicion that the Grievant was using marijuana. The Supervisor noticed a strong smell of marijuana in the classroom. The shop steward in the same class said he did not smell anything.

Two Supervisors went to the employee's vehicle. The Supervisors saw a fishing pole, helmet and a sling shot. The Supervisors were concerned that the sling shot was a weapon and called Corporate Security. When the Corporate Security representative arrived he was provided access to the Grievant's vehicle. The Grievant, steward and Supervisor went to a conference room to begin the investigatory interview.

Corporate Security found a marijuana cigarette butt in the ash tray with other cigarette butts, which was later confirmed by an independent lab.

Questions concerning access to the vehicle by the garage and others were discussed as well as the fact that the employee had a hide a key on the vehicle. There was no direct testimony or other evidence that any one other than the Grievant accessed the vehicle recently.

The Grievant stated that he smoked two packs of cigarettes a day and had an ash tray in the truck with cigarette butts in it but the marijuana butt was not his.

A second meeting with Corporate Security was held in Santa Rosa to discuss this event and the fact that inappropriate material was discovered on the Grievant's Company cell phone. The Grievant had no response for the inappropriate material on the cell phone and again denied the marijuana was his.

Discussion:

The Union argued that the Company lacked sufficient evidence that the marijuana was the Grievant's. The Corporate Security representative was alone when the marijuana butt was found in the Grievant's Company Vehicle and there were no other witnesses. The supervisor the day before this incident smelled marijuana on the Grievant but did not send him for a fitness for duty. The Union maintained the position that the discipline was too severe.

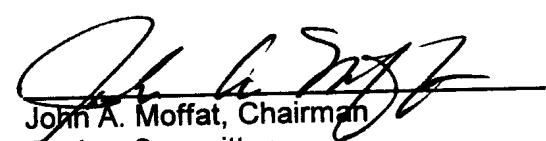
Company argued that the preponderance of evidence supports the position that the marijuana belonged to the Grievant. There is no motivation for Corporate Security to make up the marijuana butt story. The truck was assigned to the Grievant and there is no evidence anyone else has used the vehicle or had access. The Grievant admitted that the cigarette butts in the same ash tray as the marijuana were his.

The Company further argued that the policy for zero tolerance for the use of drugs and alcohol has been made clear and others have been terminated for violating that policy. The Grievant in this case in addition to the possessing an illegal substance he also stored pornographic pictures and inappropriate text messages in his company cell phone.

Decision:

Based on the evidence in this case supporting the allegation that the employee possessing marijuana on Company property in a Company vehicle assigned to him and his misuse of his Company cell phone by storing pornographic pictures and inappropriate text messages, the termination was for just cause.

This case is closed without adjustment.


John A. Moffat, Chairman
Review Committee
9/18/09
Date


Bob Choate, Secretary
Review Committee
9/18/09
Date