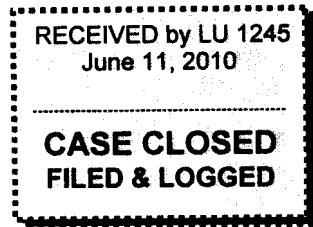




## REVIEW COMMITTEE



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INTERNATIONAL BROTHERHOOD OF  
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JOHN MOFFAT, CHAIRMAN

BOB CHOATE, SECRETARY

DECISION  
LETTER DECISION  
PRE-REVIEW REFERRAL

### Pre-Review Committee No. 19476 Energy Delivery – Grid Maintenance – San Francisco

Michelle Roberts  
Company Member  
Local Investigating Committee

Landis Marttila  
Union Member  
Local Investigating Committee

#### Subject of the Grievance:

The termination of an Electric Maintenance Crew Leader for reporting to work unfit and driving a Company vehicle while under the influence of alcohol.

#### Facts of the Case

The Grievant is an Electric Maintenance Crew Leader with 19 years of service. The Grievant was terminated on August 4, 2009 as a result of his conduct on July 18, 2009. The conduct was reporting to work unfit for duty.

On Saturday morning the Grievant reported for pre-arranged overtime. The Grievant was the crew leader for a crew that was to perform combination of hot and dead wash at a substation.

The Grievant tailboarded the crew in preparation for the job. The Grievant drove a Company truck from the yard to the jobsite. The Grievant was having trouble with one member of the crew and called the supervisor to assist. The supervisor said he was on his way to the job site. Two supervisors arrived at the job site and did a behavioral observation of the Grievant. A crew member had called the supervisor over concern of the fitness of the Grievant. They approached the Grievant and told him that they wanted him to go to a medical facility to see if he was fit to work. The Grievant was willing to go.

There was confusion in this case on what procedure to use and whether the employee was covered under the DOT Reasonable Suspicion Test or the Supervisor's Behavioral Observation for fitness for duty. While at the hospital the supervisor was notified that the DOT tester was at the headquarters and could administer a Breathalyzer test there.

The Supervisor told the Grievant that they suspect that he was under the influence of alcohol. The Grievant stated that he had gone out the night before and had drinks. He said he had his last drink at 10:00 p.m. He reported for work the next morning at 6:30 a.m.

The Grievant agreed to take the breathalyzer and the result was a .035. The test was administered at 1:30 p.m. seven hours after reporting for work.

On average alcohol dissipates .015 per hour.

The Grievant is not covered under the DOT provisions and should not be in the Company's DOT pool for commercial drivers.

Discussion

The Union argued that the first time offender policy under the DOT reasonable suspicion testing should be used and the Grievant would be subjected to a Written Reminder and a "Last Chance Agreement" not discharge.

Company argued that the DOT procedures were not applicable in this case. Reporting to work unfit and driving a vehicle under the influence of alcohol violates USP 1 and USP 12 and subjects the Grievant to discharge. If we consider the employee average and based on the time the test was given the employee would have reported to work with .14 well over the legal limit.

Decision

Based on the fact that the employee was reported by co-workers and observed by supervision and that his test proved that he was under the influence and therefore it is concluded that he violated USP 1 and USP 12, and based on other decisions while driving under the influence of alcohol the termination was for just and sufficient cause.

This case is closed without adjustment.



John A. Moffat, Chairman  
Review Committee

6/14/10

Date



Bob Choate, Secretary  
Review Committee

6/4/10

Date