



REVIEW COMMITTEE



PACIFIC GAS AND ELECTRIC COMPANY
LABOR RELATIONS DEPARTMENT
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INTERNATIONAL BROTHERHOOD OF
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KATHY LEDBETTER, CHAIRPERSON

DAVE SANKEY, SECRETARY

Pre-Review Committee No. 25791 Gas Operations—GC Gas – Traffic Control

Lisa Bechtel
Company Member
Local Investigating Committee

Mike Saner
Union Member
Local Investigating Committee

Subject of the Grievance

This case concerns the discharge of a Traffic Control Utility Worker for refusal to submit to a confirmation breath alcohol test.

Facts of the Case

In August, 2021, the Grievant was subject to follow-up drug/alcohol testing due to an initial positive drug screen in 2020. At the August 2021 follow up test, his initial Breath Alcohol Test (BAT) result was .036 which required a confirmation test be administered to verify the outcome of the test.

The procedures related to this retest are noted in Letter Agreement No. 04-16, Attachment Tab Q as:

“If results are 0.02 or greater, a confirmation test must be performed. Prior to conducting the confirmation test, a waiting period of at least 15 minutes and not more than 30 minutes is observed.”

The BAT Technician utilized testing equipment that resets itself to administer the test again after the 15 minute waiting period. The Grievant was then given an additional 5 minutes to submit to the testing process. He challenged both the Technician and a company DOT representative that he should be provided longer to retest and did not have sufficient time to provide a sufficient breath specimen within that 20 minute timeframe.

Given the refusal to test, the Company determined the test result to be a Second Positive. The Grievant was discharged in September 2021.

The Union filed a Grievance on the discharge on the basis that the DOT Testing Procedures had not been properly followed and that the outcome should not be considered as a second positive result.

Discussion

The Pre-Review Committee is in agreement that all DOT procedures and policies should be followed. This includes the provisions of LA 04-16.

LA 04-16, Attachment Tab Q specifically notes that a 15 minute but not more than 30 minute waiting period is to be observed for a confirmation test. This procedure is in alignment with DOT Testing Regulations (**§ 40.251**) that require the waiting period to be 15 minutes and states that the confirmation test should begin as soon as possible once the 15 minute waiting period has elapsed.

Further, the PRC noted that LA 04-16 also contains provisions that failure to cooperate with the collection process or failure to provide a sufficient breath specimen will be determined a refusal to test and that a refusal to test is considered the same as a positive test result.

Decision

The Pre-Review Committee is in agreement that the Company followed the provisions of Letter Agreement No. 04-16 in its determination of a Second Positive result for the Grievant.


Therefore, the discharge was for just cause and in accordance with provisions of LA 04-16.

This case is to be considered closed based on the above.

For the Company:

For the Union:

 10/18/2023
Kathy Ledbetter, Chairperson Date
Review Committee

 10/18/2023
Dave Sankey, Secretary Date
Review Committee