

7.1: In a second positive DOT discharge, failure to follow procedure does not result in rejection of test results - Discharge sustained.



REVIEW COMMITTEE

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CASE CLOSED
FILED & LOGGED
FEB 23 1995

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, AFL-CIO
LOCAL UNION 1245, I.B.E.W.
P.O. BOX 4790
WALNUT CREEK, CALIFORNIA 94596
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R.W. STALCUP, SECRETARY

RICK R. DOERING, CHAIRMAN

Review Committee Decision

- DECISION
- LETTER DECISION
- PRE-REVIEW REFERRAL

Review Committee File No. 1776
Local Grievance No. OAK-94-54

Grievance Issue: Termination of the grievant for a second violation of the Company's Drug Free Pipeline.

Facts of the Case:

The grievant was terminated April 7, 1994, after it was determined that he was positive for drugs for a second time.

On March 23, 1994, the grievant was required to provide a urine sample. In the morning of March 23 the grievant failed to provide an adequate urine specimen. In the afternoon of March 23 the grievant was required to provide another specimen.

When the second specimen was provided several procedural errors were made by the collector. The collector left the grievant alone with the specimen while he gathered his paperwork. The grievant left his specimen in the restroom unattended. The restrooms were not properly marked.

Discussion:

The Union argued that the Company failed to follow the process negotiated between the parties and the urine specimen should not be used and the results disregarded.

The Company agrees that there was a technical breach of chain of custody but the specimen and results are valid. There was no plausible motive or realistic opportunity for the grievant's sample to have been tampered with.

In order for the sample to have been tampered with the third party would have had a minuscule period of time to enter restroom, add cocaine metabolites as benzoylegonine to specimen and would have had to know when and where the grievant was being tested.


Disposition:

The Committee agrees that there was a breach in policy during the second collection that day. This breach of policy however, does not justify discarding the results of the test. The Committee agrees that there was no credible evidence that the specimen had been tampered with or altered in any manner.

Based on the above, the Committee agrees that the termination was for just cause. The Company also committed to redouble their efforts that collectors are properly trained in PG&E procedures and requirements.

This case is closed.


For the Company:
Shan Bhattacharya
Bill Blastic
Bill McLoughlin



John A. Moffat
Chairman
Review Committee

2/23/95
Date

For the Union:
William Bouzek
James Lynn
Sherrick Slattery



Roger W. Stalcup
Secretary
Review Committee

2/8/95
Date