

7.1: A 35-year employee and an 8-year Troubleman, who was terminated for conducting personal business on Company time and multiple safety infractions was given a PD for just cause.

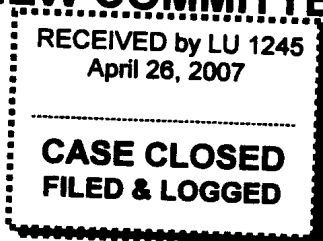


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MARGARET A. SHORT, CHAIRMAN

DECISION  
LETTER DECISION  
PRE-REVIEW REFERRAL

## REVIEW COMMITTEE



INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, AFL-CIO  
LOCAL UNION 1245, I.B.E.W.  
P.O. BOX 2547  
VACAVILLE, CALIFORNIA 94696  
(707) 452-2700  
BOB CHOATE, SECRETARY

### REVIEW COMMITTEE No. 16720 OM&C – Electric T&D – Vallejo

Carol Quinney  
Company Member  
Local Investigating Committee

Joe Osterlund  
Union Member  
Local Investigating Committee

#### Subject of the Grievance

This case concerns the discharge of a Troubleman for conducting personal business on Company time and multiple safety infractions.

#### Facts of the Case

Grievant is a 35-year employee and an 8-year Troubleman, who was on an active DML at the time of discharge. The DML preceded discharge by approximately 7 months; was grieved and upheld.

In February 2006 Corporate Security was notified of concerns that the grievant was participating in pool tournaments while on duty. An investigation was initiated; the decision was made to surveil the grievant while assigned to the 1:00 p.m. to 9:00 p.m. shift. He was watched on April 4 – 7 and April 25 – 27, 2006; a total of 7 occasions.

During the surveillance period, the grievant was observed:

- at home on several occasions
- using the Company truck for round trip from home to store to purchase beer
- parking Company truck on the wrong side of the street
- pulling a female adult into the Company truck
- failing to put out cones
- failed to wear protective gloves when opening an air switch
- entering or leaving the pool hall/bar on several occasions

At the LIC, the grievant said: he went for the purpose of playing the game he was trying to play. ...the other team person hit the eight ball so the game was over....I didn't hit the cue, I didn't shoot pool. Prior to the tournament, the employee asked the supervisor for permission

to play, after about a ten minute discussion with the supervisor, the supervisor said if you are asking me for permission to go there, I can't give it to you."

With respect to transporting alcohol in a Company truck and whether he understood it was a violation of the Employee Conduct Summary, the grievant said..., "if I had known it was a violation I wouldn't have done it." There is documentation in the LIC file of the grievant receipt and signing of the Summary in 2005.

Discussion

The Union indicated it had two problems with the discharge. First that the surveillance continued without notifying the grievant to stop the safety violations and secondly, that given his long service to the Company and the Union as a Shop Steward, the discharge should be mitigated, per the Positive Discipline Guidelines. At the Review Committee, the Union asked Company to consider reinstating the grievant; demote him to Lineman; limited redress to the grievance procedure should he again be discharged; and a without prejudice settlement.

Company declined Union's settlement offer and responded that, in addition to the active DML, the grievant also had an active WR in the conduct category. The employee received many opportunities to correct behavior over the years, but chose not to. All of the above are willful acts in disregard of conduct or safety rules that are well known to all employees. The grievant opting to play in a pool tournament in spite of his supervisor's forewarning clearly shows the prior discipline did not have the desired effect and that the grievant's conduct indicated he is not motivated to work. Further, the grievant's status as a Shop Steward should have made him more familiar not less familiar with the rules.

As to the surveillance, the length of an investigation varies depending on the circumstances and is not within the purview of the labor agreement. Company's responsibility is to complete a thorough and fair investigation.

Decision

The Review Committee agrees the discharge was for just cause. This case is closed without adjustment.

**For the Company:**

Margaret A. Short  
Bob Lipscomb  
Dave Morris  
Craig Porter

By: Margaret Short

Date: 12/21/06

**For the Union:**

Bob Choate  
William R. Bouzek  
Louis Mennel  
Sherrick A. Slattery

By: Robert Choate

Date: 12/21/06