7.1 -Just cause for dischg. Impact of minor flaws in the DOT drug screen urine collection process.

REVIEW COMMITTEE

PG&E

IBEW

PACIFIC GAS AND ELECTRIC COMPANY
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D.J. BERGMAN, CHAIRMAN

☐ DECISION
☐ LETTER DECISION
☐ PRE-REVIEW REFERRAL

AUG 11 1992

CASE CLOSED
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INTERNATIONAL BROTHERHOOD OF
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Yosemite Division Grievance No. YOS-91-3
P-RC 1573

August 5, 1992

BOB HINSON, Company Member
Yosemite Division
Local Investigating Committee

FRANK HUTCHINS, Union Member
Yosemite Division
Local Investigating Committee

Subject of the Grievance:

This grievance alleges that the grievant was terminated without just and/or sufficient cause in relation to the Drug Free Pipeline Program (DFPP) testing procedures.

Facts of the Case:

The grievant, a Gas Serviceman, was given a random urine test on September 24, 1990, pursuant to the DFPP. The results were positive. Consistent with the DFPP agreement, the employee completed a rehabilitation program and was, upon his return to work, subject to post-rehabilitation testing.

Between October 4, 1990 and April 1, 1991, the grievant was sent for four post-rehabilitation tests and one return to work test. In each instance, the test results were negative. On April 22, 1991, the grievant was sent out for a fifth post-rehabilitation test. The result was reported as positive.

At issue in this case is whether or not the Company violated the Company-Union DFPP Agreement when the grievant was terminated. Specifically, Pharm Chem, the designated lab for testing all PG&E DFPP samples, did not check off the box on the Chain of Custody Form which denotes whether or not the seal on the sample was intact upon receipt at the lab. Secondly, on the document used by Pharm Chem to transmit the split sample to a second lab, one of the digits in the ten digit bar-code was inconsistent with the original Drug Test Custody and Control Form.

On April 22, 1991, both a test sample and a split sample were secured from the grievant. On May 2, 1991, PG&E was notified by the MRO that the test sample tested positive. On that same day, the split sample was forwarded to Compuchem Laboratories for testing. The sample was received by Compuchem on May 6, 1991. The Chain of Custody Form provided by Compuchem indicates that the sample was "received for testing, seal intact." On May 13, 1991, Compuchem confirmed the split sample was positive. On May 14, 1991, the grievant was terminated.

By letter dated May 3, 1991, Pharm Chem notified PG&E, in part, that:

> Our standard operating procedure, which is strictly enforced, is for the Specimen Receiving Technician to check the specimen for an intact security seal and to reject the specimen unless the seal is affixed to the bottle in such a way that the bottle cannot be opened without breaking the seal. An intact seal is again verified before the accessioning technician opens the bottle to pour an aliquot for testing.

Thus, Pharm Chem asserted that upon receipt, the sample was properly sealed. They further asserted that the accessioning tech again verified the seal was intact.

The samples collected on April 22, 1991 were transmitted to Pharm Chem on Drug Test Custody and Control Form Specimen (bar-code) I.D. #0900377538. When the split sample was transmitted to Compuchem on May 3, 1991, the Specimen I.D. was listed as 900377538.

Discussion:

At the outset, the Pre-Review Committee recognized that there were flaws in the process of testing the samples in this case. The Committee was faced with determining whether the flaws were harmless/administrative errors that should not impact the outcome of the test or whether the error was a fatal flaw that should cause the test to be thrown out and treated as a non-test.

Pharm Chem failed to properly complete a portion of the Chain of Custody Form when the Specimen Receiving Technician failed to mark the boxes questioning whether the seal was intact and that the labels matched. Standing alone, this may have been sufficient for a fatal flaw finding. However, the split sample which was tested by a second lab did not suffer from this flaw. The sample was received with the seal intact and tested positive for some of the same substances as were found in the Pharm Chem test.

As to the issue of the Specimen I.D. or bar-code number, the difference between 0000377538 and 0900377538 is the second digits at the beginning of the sequence. In response to questions, Pharm Chem indicated that the actual number is the final six digits and that Pharm Chem's regular custody and control forms begin with 000 followed by a seven digit number and that temporary forms begin with 0900 followed by a six digit number.

Based upon this information, it is the opinion of the Pre-Review Committee that a clerical error occurred when the digit zero was used in place of the digit nine as the second digit of the bar-code number. The digits of substance are the last six numbers in the bar-code, and there is no difference in how these digits appear on the various documents in this grievance.

Decision:

It is the conclusion of the Pre-Review Committee that the sample forwarded from Pharm Chem to Compuchem was the split sample collected from the grievant on April 22, 1991. This sample tested positive. As previously stated, standing alone, the Pharm Chem test results may have been found to be fatally flawed as a result of the failure of the lab to note if the seal was intact and if the labels matched. However, the Pre-Review Committee believes the evidence is convincing that the positive sample tested by Compuchem was that of the grievant.

After reviewing all the available evidence, it is the opinion of the Pre-Review Committee that the April 22, 1991 sample provided by the grievant was a second verified positive. Consequently, the Committee is in agreement that the discharge of the grievant was for just and sufficient cause.

However, the Union reserves the right to challenge the Company in the future when there are discrepancies in drug testing protocol in relation to DFPP procedures, or when the bar-code is suspect.

This case is considered closed on the basis of the foregoing, and such closure should be so noted by the Local Investigating Committee.

David J. Bergman, Chairman
Review Committee

Roger W. Stalcup, Secretary
Review Committee

TPCarter(223-8397): nj