

#1729

BENCH DECISION AND AWARD

Expedited NTA

ARBITRATOR:

Furman

HEARING DATE:

12-8-03

GRIEVANT:

TED BOGIE

GRIEVANCE #: 27-11-(030724)-1400-01-06

DEPARTMENT:

DQ+C

UNION:

OCSEA

MANAGEMENT
ADVOCATE:

Don Campbell

UNION

ADVOCATE: Robert Jones

ISSUE

Was G disciplined for just cause?
If not, what is the appropriate remedy?

AWARD

G. was charged with a violation of R 8 & R 17. ^{Per} ^{Arb} ^{finds} ^{insufficient}
evidence to support a R 17 violation. The claimed failure to

carry out a work assignment relates to three claimed "missed steps":

a shut off alarm; an overflow tank; and a low condenser tank. The

problem for the Arbitrator is the apparent inconsistency in G's

actions: reporting the problem just the day earlier but allegedly

~~not~~ negligently missing some of the issues ^{reported both immediately} the very next day.
The Arbitrator viewed the complaint and it is undisputed that after

ISSUED AT:

Detroit MI

DATE:

12-8-03

ARBITRATOR'S
SIGNATURE:


equipment needs attention / repair / replacement.
~~But~~ This is not an OSHA case. There is no direct
+ these issues are outside the Arb. authority in this case.
rel at work than the failures of equipment & the
events of 4-27-03 / 4-28-03. ~~But~~ There is
a question about the reliability of the controls,
leaks on the condensate tank. There is no real
question about the valves work on the ~~subject~~ chemical
tank. They ~~were~~ ^{failed to shut off the} overflowing tank, the fact that no
damage immediately resulted is irrelevant.

Considering all the facts & circumstances of the
case, the Arb. finds that the Employer ^{failed to} prevent
by a preponderance of evidence that there ~~was~~
was a failure to report to shift change a problem
with the down / low condensate tank which
was noted at 3:10 pm. ^{due to G's negligence or mistake} There was also overflow of
the chemical tank. ~~However~~ Gules less emphatic
about his conclusion in regard to the chemical
tank. ~~The Arb. finds this to be a failure~~ (5) day suspension / fine
for this offense is ~~correct~~ ^{appropriate} & ~~reasonable~~ ^{reprehensible}.
The suspension is modified to a written reprimand
for R & ~~G~~ to carry out a work assignment.
~~G is restored to five day fine~~ G should be made
whole for lost pay / time.