

A company, concerned about illegal drug use on its premises by employees, hires an undercover agent. As a result of the agent's investigation, two employees are arrested. The employees offered to sell the agent "speed," and actually delivered it to him. There were two transactions, one for \$180 and another for \$150. The agent was actually sold diet pills and caffeine capsules. Ultimately the criminal charges against the two employees were dismissed. The employees, however, were fired shortly after the incident. The Company's work rules, in relation to drugs, forbid the use, or possession, of illegal drugs on the company premises. The Company's collective bargaining agreement with the union representing Company employees specifies that discipline or discharge shall only be for just cause. The union files a grievance protesting the firing of the two employees.

Assume that you are a labor arbitrator reviewing the above grievance. What is your ruling, and why?

MODERATOR'S ANSWER: As arbitrator in this case you should uphold the Company's decision to discharge the two employees. Granted, the drugs they sold were not illegal, and the Company rules only forbade the use or possession of illegal drugs on company premises. Nonetheless, the company has just cause for discharge, as required by the collective bargaining agreement. The employees' activities substantially contributed to creating an atmosphere in the workplace that encouraged the use or possession of illegal drugs. No company need tolerate such an atmosphere, and may justifiably impose strong sanctions in the case of activity that substantially contributes to creating it. Other companies might not have gone so far as to discharge the two employees, but for such a case as this, discharge is, nonetheless, within the range of morally acceptable sanctions in the employment relationship.

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