

Opinion and Award

Appearances:

✓ FELLIN For the Company:

W. A. Dillon, Assistant Superintendent, Labor Relations
J. Borbely, Divisional Supervisor, Labor Relations
W. Flournoy, General Foreman, Finishing and Shipping,
#1 and #2 Cold Strip

For the Union:

Cecil Clifton, International Staff Representative
F. Gardner, Chairman, Grievance Committee
J. Wolanin, Secretary, Grievance Committee
J. Stone, Grievance Committee

This grievance was filed on behalf of the Hallden Shear Crew on the 8-4 turn of April 17, 1958, and complains that the grievants although scheduled for eight hours of work that day were sent home after four hours in spite of the fact that there was sufficient work on hand for them to continue to do until the end of their turn. The Union relies on Article VI, Section 1 in support of this claim.

The Company answers that by virtue of its reserved managerial rights it was free to discontinue production as it wished; that Article VI, Section 1 is explicitly not a guarantee of hours of work per day or per week; that it decided to send these first turn employees home because it appeared to supervision that there would not be more than two hours of work beyond the first four hours for the first turn, and that it considered it only equitable to try to provide four hours of work for the employees on the second turn to equalize the time between the two turns.

The essential facts are that the Hallden Shears were scheduled that week for only four days for each of the three turns; that the second and third turns worked four full turns, while the first turn employees by reason of the facts complained of in this grievance worked only three and one-half turns. On the day in question the second turn worked eight hours, not four hours as anticipated by supervision. Material on which the Hallden Shears work comes from the Sheet Temper Mill, colloquially called the Skin Mill. At noon on April 17, supervision testified that there would be only enough such material to operate until 2 p.m., and therefore decided to let the first turn employees go home and make the two-hour supply available for the second turn in the expectation that sufficient additional material would come out of the Skin Mill in the interval to permit second turn employees to work four hours.

This statement of the facts is at variance, however, with the Company's first step answer. It was there stated, over the signature of the General Foreman, that it was determined on the 8-4 turn "that sufficient work would not be available for all Hallden crews -- i.e. eight hours that day, therefore the 8-4 crew was sent home after four (4) hours. The remaining four hours of subject eight hour period were given to the Hallden Crew." (emphasis added). Nor was the statement in the grievance that the grievants "had steel they could have cut, but were not asked to work the other four (4) hours" denied in either the second or third step answers. Remembering that in fact the following turn worked its full eight hours, one can appreciate why it was not denied that there was or could have been available for the employees on the 8-4 turn a full eight hours of work.

The Company correctly quotes Paragraph 86 of the Agreement, which is the first paragraph of Article VI, Section 1. It states under the heading of "Scope" that:

"This Section defines the normal hours of work and shall not be construed as a guarantee of hours of work per day or per week."

It is equally noteworthy, however, that Article VI, Section 1 contains Paragraphs 90 and 92, as well as Paragraph 86. Paragraph 90 states reasons why Management may deviate from normal work pattern schedules, and Paragraph 92 stipulates that after the schedules are posted

"Any changes made after Thursday of the week or preceding the calendar week in which the changes are to be effective shall be explained at the earliest practicable time to the grievance or assistant grievance committeeman of the department involved; and provided further that, with respect to any such schedules, no changes shall be made after Thursday except for breakdowns or other matters beyond the control of the Company."

Therefore, while the intent is clear that Management retains control over schedule-making, at a certain point it may change schedules only because of breakdowns or other matters beyond its control. This restriction certainly supersedes the General Management rights reserved in Article IV, Section 1; it comes directly within the first clause of that section: "Except as limited by the provisions of this Agreement."

The Union readily conceded at the hearing that a shortage of stock on which to work would justify Management in sending employees home after four hours, without liability, although the posted schedule calls for eight hours. This would fall under the heading of other matters beyond the control of the Company.

A strikingly similar case was presented to Arbitrator Platt at Republic Steel Corporation. (Decision No. 135). He ruled in favor of

the employees, saying that:

"If the Company wishes to equalize work, it could doubtless do so directly through scheduling, not by curtailing turns and sending employees home early without regard to available work."

While he relied on a provision in Republic's contract requiring "legitimate reasons" for relieving crews, the basic contract provisions are similar to ours, both stipulating the non-guarantee feature of the Hours of Work and Scheduling section. While the Republic contract has the legitimate reason provision, the Inland Agreement has Paragraph 92, the pertinent part of which is quoted above.

AWARD

The grievance is granted.

Dated: May 8, 1959

S/ David L. Cole

David L. Cole
Permanent Arbitrator