

In the Matter of Arbitration  
Between:

INLAND STEEL COMPANY,

- and -

UNITED STEELWORKERS OF AMERICA,  
Local Union 1010.

Arbitration Award 377

Grievance No. 16-G-27

Appeal No. 312

PETER M. KELLIHER  
Impartial Arbitrator

APPEARANCES:

For the Company:

Mr. W. Weichsel, General Foreman, Numbers 1 and 2 Coil  
Pickling Department;  
Mr. W. A. Dillon, Assistant Superintendent, Labor Relations  
Department;  
Mr. D. L. Taylor, Turn Foreman, Numbers 1 and 2 Coil  
Pickling Department;  
Mr. W. T. Carr, Turn Foreman, Numbers 1 and 2 Coil Pickling  
Department;  
Mr. L. E. Davidson, Assistant Superintendent, Labor Relations  
Department;  
Mr. R. V. Stanton, Assistant Superintendent, Labor Relations  
Department;

For the Union:

Mr. Cecil Clifton, International Representative  
Mr. Gene Wedding, Aggrieved  
Mr. Ted Rogus, Grievance Committeeman  
Mr. D. Black, Chairman, Grievance Committee  
Mr. A. Garza, Secretary, Grievance Committee  
Mr. R. Sasser, Witness  
Mr. C. Huff, Witness  
Mr. Ruby Perry, Witness

STATEMENT

A hearing was held in Gary, Indiana, on October 10, 1960.

## THE ISSUE

The Grievance reads:

"The aggrieved, G. A. Wedding, contends that the action taken by the Company the week of June 5th, 1960, when he was discharged is unfair, unjust and unwarranted in light of all of the circumstances. Aggrieved requests that he be reinstated with full seniority rights and paid all monies lost."

## DISCUSSION AND DECISION

As in most discharge cases the testimony is in sharp conflict. The weight of the evidence is that in the period of a couple of weeks prior to this incident the No. 1 coil stop had been sticking. The Grievant's testimony was not refuted that he had reported this to the three Turn Foremen, the Assistant to the General Foreman, and the General Foreman. A Millright testified that upon inspecting this coil stop he found the linkage worn and that it would not hold or release and turned it in to be repaired, or to have the cylinder replaced. The Mechanical Foreman testified that although a new cylinder was brought up to be installed, that upon a close examination it was concluded that it was unnecessary to replace the existing cylinder. It is his testimony that the stop was checked with about a dozen coils on the day before the incident and it appeared to be working properly. He denies that the Millrights got a call on May 25, the day of the incident, with

reference to this stop. He agreed, however, that like any mechanical device this stop could go out of order at any time. The Grievant claims that on the day of the incident the stop was working all right at times and at other times was sticking.

The Arbitrator believes that the following quotation from the Company's "Statement of Facts" (Company Brief--page 2) is significant:

"At 6:55 p.m. on May 25, 1960 the Turn Foreman, D. Z. Taylor responded to a whistle signal from the feed end of the No. 1 Continuous Coil Pickling Line. Upon his arrival there he was informed by one of the three (3) Feeders assigned to No. 1 Line, D. Mayorga, that the other Feeder, G. Wedding would not assist him to carry a tail of a coil that had been straightened and was ready for processing over the coil so that the strip could be moved forward to the entry end pinch rolls. After receiving this report the Foreman asked Wedding if he was or was not going to assist the other Feeder. Wedding told the foreman that he was not going to help with the tail and remarked that he was not required to do this work because this was not in his job description. The foreman informed Wedding that this work was part of the Feeder's job and that because he refused to do it he was being sent home."

The Foreman at the hearing stated that he furnished this information when the Brief was being prepared and reaffirmed its accuracy. The Foreman testified to the same effect at the hearing and stated that he concluded his conversation with the Grievant by saying in effect: "And since you refused, I'm sending you home."

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It is evident that the Foreman did not give the Grievant  
a clear alternative to do the work as ordered or go home.  
Until the point is reached in such a situation where an  
employee clearly knows that he is being presented with a  
disciplinary alternative if he refuses--the danger is that he  
may be led to believe that the Foreman is simply still discuss-  
ing the matter. It is true that employees are presumed to  
know that if they do not follow work orders except in certain  
defined safety situations that they will be sent home. This  
does not mean, however, that a brief discussion to arrive at  
an understanding as to the basic problem is not to be expected.  
This plant realistically cannot be run as a military organiza-  
tion. In several published awards this Arbitrator has followed  
what he believes to be the general holding that an employee  
should be allowed at least some short period of time in  
which to carry out an order as given even where an alternative  
has been clearly posed. Knowing the continuous nature of  
the operations here this would have to concededly/a very  
short interval of time. The Turn Foreman's testimony would  
indicate that he immediately ordered the Grievant to go home  
and gave no consideration to his performance of the work  
within about three (3) minutes after this conversation and  
before any alleged threat had been made.

The unrefuted testimony is that the Griever works at least one city block from the area and it is improbable that the Grievant could walk to the Griever's work station--hold a conversation and then return in anything even approximating three (3) minutes. This would indicate the Grievant had performed the work on the Foreman's order and not because he had been advised by the Griever to do so. Mr. Wedding's testimony that he did not talk to the Griever until he was on his way out of the plant appears to be more acceptable on this point and it is corroborated by the Griever.

It must be observed that there is no means of determining the absolute true facts in this case with scientific accuracy even if a lie test were to be employed. The evidence would indicate that the probability is that the Grievant had repeatedly complained with reference to a malfunctioning of this stop.

In normal operations with six coils moving through there would be no occasion to have to lift or move this tail by hand. It is estimated that this would weigh from 250 to 600 pounds. This frequent additional heavy work appears to be the real basis of the Grievant's complaint. There is no showing that the Grievant was ever advised before the incident that the Mechanical Foreman had checked and that it was his

decision that the new cylinder which was still lying there did not need to be installed. This Arbitrator in reviewing the record in its entirety considers the admitted threat made by the Grievant to justify severe discipline. If it were not for the mitigating circumstances here present, the Arbitrator would be constrained to rule that this threat standing alone would constitute sufficient cause for discharge.


The Arbitrator in mitigation does consider that at least as far as the Grievant then knew he reasonably believed that supervision was ignoring his repeated complaints and that he was, therefore, unnecessarily being required to do unusually heavy work.

The Foreman while not actually directing "curse words" to the Grievant as an individual--did immediately order the Grievant to go home--without posing an alternative and ignored his performance of the work within three (3) minutes after the discussion ended.

Even if the Grievant's past record were to be considered here, it does not constitute a significant "back drop" or establish a pattern of conduct--particularly since the Grievant has been penalized only to the extent of one day's lay-off since 1952.

AWARD

The Grievant shall be offered reinstatement within five (5) days after the receipt of this award, but without compensation for earnings lost.

  
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Peter M. Kelliher  
Arbitrator

Dated at Chicago, Illinois  
this 21st day of November 1960.