

Award No. 683
IN THE MATTER OF THE ARBITRATION BETWEEN
INLAND STEEL COMPANY
AND
UNITED STEELWORKERS OF AMERICA
AND ITS LOCAL UNION 1010

Grievance No. 19-N-8

Appeal No. 1281

Arbitrator: Bert L. Luskin

March 17, 1980

INTRODUCTION

An arbitration hearing between the parties was held in Harvey, Illinois, on February 29, 1980. Pre-hearing statements were submitted on behalf of the respective parties.

APPEARANCES

For the Company:

Mr. R. T. Larson, Labor Relations Coordinator

Mr. T. L. Kinach, Arbitration Coordinator, Labor Relations

Mr. T. J. Peters, Assistant Superintendent, Labor Relations

Mr. R. J. Wisniewski, Assistant Superintendent, Field Forces

Mr. L. R. Barkley, Administrative Assistant, Labor Relations

Mr. E. Jones, General Foreman, Boiler Shop, Field Forces

For the Union:

Mr. Theodore J. Rogus, Staff Representative

Mr. Joseph Gyurko, Chairman, Grievance Committee

Mr. William Gales, Vice Chairman, Grievance Committee

Mr. Phil King, Acting Secretary

Mr. Tom Formosa, Assistant Griever

Mr. Clifford Mezo, Vice President (Grievant)

BACKGROUND

Clifford Mezo worked as a journeyman welder in the Field Forces Department. Mezo serves as the elected Vice President of Local 1010, United Steelworkers of America. Mezo is a full-time employee of the Company and is scheduled in the same manner as are all other journeymen welders working in the Field Forces Department.

On August 16, 1978, the Company received a letter from the President of Local 1010 (dated August 14, 1978) advising the Company that Mezo would (for the period between August 20 and September 2, 1978) be serving as the Acting President in the place and stead of William Andrews. The letter also advised the Company of temporary status changes for other persons serving in various positions with the Local Union. The procedure was followed by the Union in compliance with applicable provisions of the Collective Bargaining Agreement. On the same day (August 16, 1978) the Company received a letter bearing date of August 14, 1978, from the President of the Local Union confirming a telephone call made to the Company's Superintendent of Labor Relations advising the Company that Mezo would be reporting off from work on Union business for the period between August 20 through September 2, 1978, (Sunday through Saturday). The Company was asked to make the necessary arrangements and to notify the department involved. The letter contained the names of other employees who would be reporting off from work on Union business for different periods of time. The Superintendent of the Field Forces Department was thereafter notified that Mezo would, for the period involved, be serving as the Union's Acting President and would not be at work because of Union business for the weeks beginning August 20, 1978, and August 27, 1978.

Mezo's normal work schedule would have called for him to work Friday through Friday (day turn) in each of the two weeks in question. The Company recorded his absences in that two-week period as "due to Union business."

In the week commencing September 3, 1978, Mezo was scheduled off on Sunday, September 3, and Friday (Labor Day holiday), September 4, 1978. Mezo worked on Tuesday and Wednesday, September 5 and 6, 1978, and he was scheduled off on September 7 and 8, 1978, for Union business. Mezo did not receive pay for the Labor Day holiday of September 4, 1978. He was informed that he had failed to qualify for pay for the unworked holiday pursuant to the eligibility requirements set forth in Article 11, Section 4-b-(3).

Following oral discussions, a grievance was filed on October 23, 1978, (Grievance No. 19-N-8), contending that the Company had violated Article 11, Section 4, when it denied Mezo holiday pay for Labor Day, September 4, 1978. The grievance was denied. It was the Company's contention that Mezo was scheduled to work on Friday, September 1, 1978, and, because of his failure to work on that day, he did not meet the eligibility requirements for the payment of holiday pay for Labor Day, September 4, 1978.

The Union contended that Mezo's absence from work on September 1, 1978, should be construed as an absence falling within the definition of the terms "because of similar good cause" and the absence should be considered to be one which would fall within the exception provisions set forth in Article 11, Section 4-b-(3). The Union further contended that under any circumstances Mezo's last scheduled work day preceding the holiday would have been Friday, August 18, 1978, and since Mezo did work on that day and since he had worked on the first scheduled work day following the holiday, he had thereby achieved eligibility for the payment of holiday pay.

The Company contended that Mezo had been scheduled to work on Friday, September 1, 1978, and had failed to work on that day, thereby failing to qualify for the holiday pay. The Company contended that, although Mezo had an acceptable excuse for his absence from work on September 1, 1978, his absence because of Union business would not have changed his status as an employee who was scheduled to work on Friday, September 1, 1978.

The grievance was thereafter processed through the remaining steps of the grievance procedure. The issue arising therefrom became the subject matter of this arbitration proceeding.

DISCUSSION

The provisions of the Agreement cited by the parties as applicable in the instant dispute are hereinafter set forth as follows:

"ARTICLE 11

"OVERTIME AND HOLIDAYS

"SECTION 4. PAY FOR HOLIDAYS NOT WORKED.

"b. As used in this Section, an eligible employee is one who:

"(3) works as scheduled or assigned both on his last scheduled workday prior to and on his first scheduled workday following the holiday unless he has failed to so work because of sickness or because of death in the immediate family or because of similar good cause.

"ARTICLE 21

"GENERAL PROVISIONS

"SECTION 4. LOCAL OFFICERS - REPORTING OFF.

"The officers of the Local Union shall be allowed to report off from scheduled work at reasonable times for the purpose of transacting legitimate Union business. Requests to report off shall be made by the President of the Local Union to the Superintendent of Labor Relations who shall transmit such requests to the respective department superintendents. Such permission to report off shall not be unreasonably requested and shall not be unreasonably withheld."

The Company contended that Mezo remained on schedule and that the Company was required by various provisions of the Agreement to place Mezo on schedule for the two-week period during which he served as the Acting President of the Local Union. The Company contended that his absences during that two-week period were excused absences, but that since he was "on schedule" an excused absence for the Friday preceding the holiday would not constitute compliance with the provisions of Article 11, Section 4-b-(3). The Union contended that Mezo was not "scheduled" to work on the Friday preceding the holiday and that in any event his absence from work on Friday, September 1, 1978, should have been viewed as an absence occasioned "because of similar good cause" within the definition of that term as used in Article 11, Section 4-b-(3).

The arbitrator does not consider Mezo's absence on Friday, September 1, 1978, as an absence which should be considered an excused absence within the meaning of the term "because of similar good cause." That term has been defined in a series of decisions by arbitrators who have interpreted those identical words appearing in a number of Basic Steel Agreements. The reason for Mezo's absence was neither "reasonably beyond his control and unavoidable" nor was it of the "same gravity" as absences occasioned by sickness or death in the immediate family, nor was Mezo's absent "in spite of all his reasonable efforts" to report for work. Mezo was able to carry out his basic obligations as a member of the Union, as an officer of the Union, and as the required replacement for the absent President of the Union, with the permission and consent of the Company. His absences were excusable and justified and were in compliance with the procedures set forth in the Agreement. His absences were not the ordinary, typical type of absence

occasioned by a pressing need to be away from work after he was scheduled to work. His absences could not be considered to be similar to the type of absence referred to in Article 6 of the Agreement where provision is made for the report offs of certain employees who are required to perform their assigned functions as Local Union representatives pursuant to the applicable provisions of the Collective Agreement. The nature of Mezo's required absences from work in August, 1978, was unique. It was not a single day of absence, but was an absence for a two-week period with the permission and consent of the Company. The effect of that absence was to remove Mezo from any requirement that he report for work "as scheduled" within the accepted meaning of that term. The fact that the Company may, for administrative and for record-keeping purposes, continue to list an absent employee on its work schedule does not mean that the employee is "scheduled" to work within the meaning of the term as used in Article 11, Section 4-b-(3). The purpose of that provision is so well known to the parties that it needs no further explanation or amplification in this opinion and award. It is sufficient to note that Company officials and Mezo's departmental supervisors knew well in advance of September 1, 1978, that Mezo would not work on that day or on any day within the two-week period preceding the holiday in question.

For all practical purposes, Mezo was not expected to work, he was not required to work, and he would not insist upon working on the Friday preceding the holiday even if he had elected to do so. The contractual language relating thereto is clear and unambiguous and, if Mezo had wanted to work and had reported on Friday, September 1, 1978, the Company would have been under no contractual obligation to have permitted Mezo to work on that day. The fact that an employee's name (for administrative purposes) is kept on a schedule even though he has been granted permission to be absent for a period of time, does not mean that in each and every instance such an employee would be considered to be "scheduled" within the meaning of that term as used in the holiday eligibility pay provision. This is not the type of instance involving an employee who is absent on a day when he would otherwise be scheduled to work.

For purposes of the administration of Article 11, Section 4-b-(3), the unusual facts and circumstances relating to Mezo's absence from work for the two-week period preceding the holiday in question should have been considered to be a period during which Mezo would not have been scheduled or assigned to work on Friday, September 1, 1978. His last scheduled working day would have been the day preceding the day on which he commenced to function as the Acting President of the Local Union. Since he worked that day and since he worked his next scheduled work day following the holiday in question, Mezo met the contractual eligibility requirements for the payment of holiday pay and he should have been paid holiday pay for Labor Day, 1978.

For the reasons hereinabove set forth, the award will be as follows:

AWARD

Grievance No. 19-N-8

Award No. 683

Clifford Mezo should have received holiday pay for the Labor Day holiday of 1978. The grievance is hereby sustained.

/s/ Bert L. Luskin

ARBITRATOR

March 17, 1980