

Award No. 717
 In the Matter of an Arbitration between
 INLAND STEEL COMPANY
 -and-
 UNITED STEELWORKERS OF AMERICA,
 Local Union 1010
 Grievance No. 16-P-51
 Appeal No. 1321
 Arbitrator: Ralph T. Seward
 January 5, 1983

This case concerns the discharge of Employee R. Jolly, on November 2, 1981, for repeated absenteeism. In particular question is the effect which should be given to the so-called "last chance" reinstatement of Mr. Jolly following a previous suspension preliminary to discharge.

The facts may be briefly summarized. Mr. Jolly had been working for the Company since 1964 and at the time of his discharge was employed in the No. 1 and No. 2 Cold Strip Mills. Since July, 1977, he had several times been penalized for what the Company considered excessive absenteeism. He had been given a reprimand on July 13, 1977, a one-turn disciplinary suspension on September 1, 1977, a two-turn suspension on June 4, 1979, and a three-turn suspension on October 13, 1979. On January 11, 1980, his record of absenteeism had been reviewed with him by the Assistant Superintendent of his department, and on the basis of that review he had been given a final warning.

On December 29, 1980, following an absence accompanied by a failure to report off, Mr. Jolly was suspended preliminary to discharge. A hearing was held on his proposed discharge and following that hearing, in response to Union pleas on his behalf, the Company decided to return him to work on a "last chance" basis. Accordingly, on January 13, 1981, a letter was sent to Mr. Jolly which read, in part, as follows.

An investigation of this case, following the hearing conducted in this office, failed to disclose any circumstances that would justify our altering the department superintendent's decision in this matter. However, it has been decided to give you one final chance to prove you can be a responsible employee based upon the following conditions:

1. All time lost as a result of your suspension, including the loss of any holiday pay, up to the date you are placed on the work schedule, shall constitute disciplinary time off.
2. You will meet with your department superintendent or his designated representative upon return to work for the purpose of reviewing your record.

This decision is made with the understanding that any repetition of the conduct which led to this suspension or violation of other Company rules or regulations will constitute cause for your suspension preliminary to discharge.

Shortly after his reinstatement, Mr. Jolly went on vacation. He returned from vacation on April 26, 1981. During the next six months, his record of absence and discipline was as follows.

5/16/81	Grievant reported off - sick
6/7/81	Grievant reported off - sick
7/13/81	Grievant reported off - personal
7/14/81	Grievant issued a 3-turn discipline (Absenteeism)
7/16/81	Grievant reported off - sick
8/5/81	Grievant given Record Review and Final Warning (Assistant Superintendent)
9/10 thru 9/22/81	Grievant off - sick
9/29 thru 10/13/81	Grievant off - outside accident
10/14/81	Grievant failed to report off
10/15/81	Grievant failed to report off

As a result of this record, on October 21, 1981, Mr. Jolly was again suspended preliminary to discharge. This time the notice and hearing procedures required by Article 8 of the Agreement culminated, on November 9, 1981, in Mr. Jolly's discharge. In this grievance, he claims that his discharge was unjust and unwarranted and asks that he be reinstated and paid for earnings lost.

Upon the evidence presented, I find that proper cause existed for Mr. Jolly's discharge and the grievance should be denied. It must be accepted, in this case, that Mr. Jolly's record of absenteeism during the period from July, 1977, through December, 1980, was extremely bad. He had been reprimanded, suspended for one day, suspended for two days, suspended for three days, given a "final warning" by his Assistant Superintendent, and finally suspended preliminary to discharge. He had been reinstated only with the understanding that any repetition of the absenteeism that had led to his suspension would constitute cause for his again being suspended preliminary to discharge. From the time of this reinstatement, then, Mr. Jolly knew - or should have known - that he was on trial, that further instances of unexcused absence or failure to report off would be viewed by the Company as possible grounds for discharge and that to protect his job, he should make every possible effort to be prompt and regular in attendance and - in cases of unavoidable absence - to be sure that he reported off properly and effectively.

Viewed against this background, his subsequent conduct seems inexcusable. Apparently, he wished to take a long weekend off in the middle of July and asked his foreman if he could be away Saturday, Sunday and Monday, July 11, 12 and 13. His foreman gave him permission to be off on Saturday and Sunday, but told him he could not be spared on Monday, the 13th. Mr. Jolly thereupon took all three days off, in direct defiance of his foreman's orders and without notifying the Company or making any further effort to secure permission to be off the third day.

Jolly says that he does not recall the conversation with his foreman and denies that it occurred. I judge the foreman's testimony about the conversation to be credible and worthy of belief. But in any case, a finding that there was no such conversation would only mean that Mr. Jolly had taken all three days off without permission and that the three-day discipline that followed was amply justified. On either interpretation of the evidence, then, it must be held that Mr. Jolly had violated the condition on which he had been reinstated and had placed his job again in jeopardy.

The Company, nevertheless, gave Mr. Jolly still another "last chance." On August 5, 1981, the Assistant Superintendent of the No. 1 and No. 2 Cold Strip Mills met with Mr. Jolly and, in the presence of Mr. Jolly's Acting General Foreman and a Union Assistant Grievance Committeeman, reviewed the grievant's whole disciplinary record. At the conclusion of this review, Mr. Jolly was told that unless his attendance record became satisfactory, he would be suspended preliminary to discharge. Mr. Jolly was given a written memorandum of this meeting in which this renewed "last chance" warning was expressly spelled out. It did no good. On or about September 29, 1981, Mr. Jolly had an accident at home and injured himself. His personal physician cleared him to return to work on Tuesday, October 7, 1981, but it was not until the following Monday, October 13, 1981, that he reported to the Company clinic. The clinic cleared him on that day, but he did not immediately report for work. Instead, though his shift was working from October 12 through October 15, he remained at home, and it was not until the 15th that he reached a member of Supervision by telephone and received instructions to come in on October 21st. By that time, of course, he had already been absent for at least two days without reporting off (if one disregards the time between October 7, when he was cleared to return to work by his personal physician, and October 13, when he further sought and obtained clearance from the Company clinic). When he did finally come to work, on October 21st, the Company declined to give him any further "last chance" and suspended him preliminary to discharge.

I can find no basis for holding that the Company's action was unjustified. Mr. Jolly says, it is true, that on October 13 he tried to telephone to his department but could get no answer and that on the following day his wife called the department and was told by someone that he should come in the following week, on the 21st. He also says that prior to his coming to the clinic, on October 13, he had learned from some of his fellow employees that the department was working only four days a week and had assumed that this meant that he should come in on the 15th and work through the 18th. He does not explain, however, why he made that assumption, or why, on that basis, he did not report at the plant at starting time on the 15th ready for work. His whole record from October 7, when he was cleared for work by his personal physician, to October 15, when he finally spoke to a member of Supervision on the telephone and learned that his shift had already started and his shift would next be working on the 21st is one of irresponsibility - of casualness about coming to work or not coming to work, and of haphazard carelessness about getting accurate information concerning his working schedule. Try as one might, one can find nothing in this record which would excuse his failure either to come to work or to report off or which would indicate that he was making a responsible effort to protect his job.

Mr. Jolly contends that he never knew that his reinstatement had been on a "last chance" basis. He says that he never received the Company's letter of January 13, 1981, informing him about its "last chance" action,

and never had the conference with the superintendent promised in that letter, at which his status might have been explained to him. The evidence is, however, that the January 13, 1981, letter was sent to him "Return Receipt Requested" and was signed for by his wife. It was received at his house and he must be charged either with knowledge of it or with carelessness about receiving and reading Company communications vital to his employment status and to his obligations as an employee. And even if he did not read the letter and did not know about his "last chance" status prior to his August meeting with the Assistant Superintendent, he clearly did know (and admits that he knew) about the Assistant Superintendent's warning which placed him on a renewed and final "last chance" status. His conduct in October, following that last warning was in itself, under these circumstances, grounds for discharge.

"Last chance" understandings, such as the one here involved, can be a highly important and valuable means of salvaging potentially good employees who are on the brink of discharge because of repeated instances of absenteeism or other similar lapses from responsible conduct. They can, in other words, be the capstone of progressive discipline - a means of making a final effort, through the disciplinary system, to correct habits and attitudes that might otherwise lead inevitably to discharge. If they are to serve this end, however, such "last chance" understandings must be respected and given effect. To do otherwise would be to deprive them of significance or usefulness. I hold, accordingly, that as Mr. Jolly failed to take advantage of the "last chances" which the Company gave him and continued to violate his obligations with regard to attendance and reporting off, his discharge was justified and should be upheld.

AWARD

Grievance No. 16-P-51

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The grievance is denied.

/s/ Ralph T. Seward

Ralph T. Seward, Arbitrator

Washington, D.C.

January 5, 1983