

Award No. 877
IN THE MATTER OF THE ARBITRATION BETWEEN
INLAND STEEL COMPANY

and

UNITED STEELWORKERS OF AMERICA
LOCAL UNION 1010

Arbitrator: Terry A. Bethel

November 9, 1993

OPINION AND AWARD

Introduction

This case concerns the company's decision to eliminate the local working practice of allowing a 15 minute wash-up period for day maintenance employees at No. 4 BOF. The case was tried in the company's offices in East Chicago, Indiana on September 28, 1993. Jim Robinson represented the union and Brad Smith presented the company's case. Both sides filed pre-hearing briefs.

Appearances

For the company:

B. Smith -- Arb. Coord., Union Relations
L. Coe -- Mgr., No. 4 BOF/CC
J. Bradley -- Sec. Mgr., No. 4 BOF/CC
S. Kirthauer -- Sec. Mgr., No. 4 BOF/CC
V. Soto -- Sr. Hum. Res. Gen. No. 4 BOF
M. Carle -- Sec. Mgr., Shop Services
A. Montaveras -- Mgr., Accting. Serv.
R. Cayia -- Mgr., Industrial Rel.
D. Maravilla -- Sec. Mgr., Mat. Hand. Serv.

For the union:

J. Robinson -- Chair, Grievance Comm.
M. Mezo -- President
A. Jacque -- 1st Vice Chair, Gr. Comm.
J. O'Donohue -- Griever, Area 4, 4 BOF
D. Harvey -- Asst. Griever
J. Shumaker -- Steward
G. Strauch -- Steward
C. Durham
B. Burgess
H. Schilling
J. Besterda
D. Tomaszewski

Background

This is one of two cases tried at the same time, each of which involves the company's decision to change the way in which employees enter the workplace and park their cars. The changes are explained in greater detail in the companion case, Inland Award 878, which involves both of the principal changes. The first is the new "swipe in" system, by which employees swipe a magnetic card through a card reader as they enter the plant, as opposed to the older system of obtaining time cards from a guard. Although that innovation is implicated here, the principal change involved is the company's decision to allow its employees to park inside the plant, near their work stations. Formerly, as detailed in Inland Award 878, the employees parked in remote lots, walked through a clock house to a bus stop and rode buses to their work places.

There were various estimates of the time involved under the old system, but a conservative interpretation indicates that it would take at least 15 minutes from the time an employee left his car until he arrived at his work place. In some instances, the time lag was greater. Because an employee is not paid until he actually arrives at his work station, employees spent a half hour a day or more of uncompensated time, traveling between car and work place. There is, obviously, still some time lag between the time the employee enters plant property and the time he arrives on the job.

That lag is the subject of Inland Award 878. Nevertheless, it is fair to say that most if not all of the employees at No. 4 BOF (the facility involved in this case) now spend less time getting to and from the job site than they did before the implementation of in-plant parking.

The specific dispute involves the company's decision to eliminate the 15 minute wash-up time historically allotted to day maintenance employees at the end of their shift. There is no dispute that the local practice existed. The question is whether the company has justified its elimination. In order to do so, the company, pursuant to Article 2 Section 2, must demonstrate that "the basis for the existence of the local working condition is changed or eliminated, thereby making it unnecessary to continue such local working condition."

The company urges that there are two principal justifications for the existence of the local working condition, one of which was changed by the implementation of in-plant parking. First, the company says that the practice arose because the BOF is a dirty environment and maintenance employees often need to shower before they leave. The company does not contend that there has been any change in these conditions. However, the company asserts that another justification for the wash-up time was the need to allow day turn maintenance employees to clean up and exit the plant in a timely manner. The wash-up time fostered this objective because it permitted the employees to avoid the rush in the locker room and made it possible for them catch a bus that would get them to the parking lot as early as possible. It also fostered some fairness in treatment. The shift employees were able to relieve early and, therefore, gain the benefit of early access to the locker room and the busses. The wash-up period afforded the same opportunity to day maintenance employees, who were not relieved.

It is this latter condition that the company says has been changed by the inauguration of in-plant parking. Because employees no longer have to wait for busses, they are able to exit the plant and start the trip home earlier than under the old system. This innovation, the company says, eliminates the need to get the mechanics to the locker room early in order to avoid the rush of other employees so they can catch an early bus.

The union denies the company's claim that the bus service had anything to do with the 15 minute wash-up period. It claims that the genesis of the BOF custom was in No. 1 open hearth, which contributed much of the BOF work force. Those employees did not ride busses to their work station.

Similarly, the union points out that other wash-up periods have been established in other locations throughout the plant and that some of them are in areas where employees did not ride the bus. The union also disputes the company's claim that the wash-up period was necessary to allow employees to "beat the rush" in the locker room. Jim Robinson testified that because the shift employees generally relieved on the half hour, there was no "rush" of employees in the locker room, either on the hour or 15 minutes before the hour.

Finally, the union notes that the company tried once before to abolish the 15 minute wash-up period at issue here. This action, taken in 1987, prompted a grievance that ultimately was resolved by issuance of a memo announcing that a 15 minute wash-up period would be available to all non-reline maintenance employees. Robinson testified that during discussions over the grievance, the company never contended that the bus service had anything to do with the practice. Moreover, the union contends that, because of a change in parking lots, the closing of some facilities, and a dramatic reduction in the number of employees riding busses, the time spent traveling between car and work place lessened significantly in the mid to late 1980's. Nevertheless, the company cited no such change when it tried to eliminate the practice in 1987.

Discussion

This was not an easy case for Mr. Smith to try. His case depends on his ability to prove that the substantial time lag between work place and car -- which was taken up by showering, waiting for the bus, riding the bus, and walking to the car -- was a significant basis for the wash-up practice. This requires more than merely a conclusion that there is some relationship between the time an employee leaves his work station and the time he gets home. I have no doubt that, even without the wash-up period, employees under the new parking system get home sooner than they did under the old system when they had a wash-up time. That, however, is not the issue. The issue is whether the need to ride the busses prompted the practice in the first place.

The company is not able to offer any convincing evidence of a connection. Its only real evidence came from Carle, but he admitted that he had no first hand knowledge about how the practice originated. This is not a question of credibility. I don't suggest that Carle invented his story. There is, however, a significant question about his knowledge of the considerations that led to the practice.

The company should not be limited to direct evidence in its efforts to demonstrate that changed conditions have made local working conditions unnecessary. No doubt many local working conditions originated before any current employees began their service with the company, which would make it difficult for the company to offer direct testimony. The company, then, might also establish the basis of the practice by

demonstrating a connection between the basis and the practice. Mr. Smith tried to do that here, but the connection is less obvious than the company claims.

There is no doubt that a 15 minute wash-up practice existed. Nor is there any doubt that, prior to the inauguration of in-plant parking, employees spent more time exiting the plant than they do now. But those facts by themselves do not demonstrate that the practice was related to the need to ride busses or to the delay the employees experienced between work place and car.

The practice seems more likely intended to allow employees to get on their way as quickly as possible. Because the employees' jobs had gotten them dirty, the company allowed them to shower on paid time so that they could be ready to leave as soon as the shift ended. Granted, it may have taken them a while to get to the parking lot, but when the practice was in place, they began the trip as soon as possible. As the union contends, this seems to have been the rough equivalent of allowing the shift workers to relieve early and, thereby, to get showered and on their way by the time the turn was supposed to end.

There is not necessary a relationship between allowing the employees to leave as soon as possible after their shift, and the time it takes them to get to their cars. Whether the trip to the car is short or long, employees have an interest in leaving as soon as possible. They are not paid after their shift time, no matter how long it takes them to get to their cars. I might credit the company's case had it been able to show that the locker room was so crowded on the hour that an early release was necessary to stagger the use of the showers or to keep the bus system from being over crowded. But I credit Robinson's testimony that workers ordinarily relieved on the half hour, so that there was no crowd in the lockerroom -- and, by extension, at the bus stop -- by the time the maintenance workers got there. In short, while the new parking system may have lessened the time it takes maintenance workers (and everyone else) to get from workplace to car, I am unable to conclude that the wash-up practice originated because the maintenance workers had to ride the bus.

The union, too, is able to present indirect evidence that bears on the basis for the practice. Here, the union presented testimony that there are other wash-up practices around the plant that are clearly not related to bus transportation, including the no. 1 open hearth practice that appeared to directly precede the one at issue here. I agree with Mr. Smith's assertion that each practice stands alone and that a wash-up period in one department might be motivated by different considerations than a wash-up period elsewhere.

Nevertheless, the union's evidence was relevant. If nothing else, it shows that a wash-up practice can exist even when there are no transportation delays.

Similarly, the fact that the company tried to eliminate this same practice in 1987 and did so without reference to any transportation changes is a relevant consideration. Although certainly not conclusive, it tends to support the union's claim that the company had not previously thought of the bus service as a basis for the wash-up period.

Finally, the company urged in final argument that its decision to allow in-plant parking had been a significant boon to the employees and that fairness -- or equity -- allowed it to reclaim the wash-up period in return. As an outsider, it appears to me that in-plant parking has benefitted employees substantially. I have no right to an opinion, however, about what it was worth or about what the union might concede, if anything, in return. Such matters, obviously, are fodder for collective bargaining, not for arbitration. My authority is limited to determining whether the company justified its action by demonstrating that a basis for the practice has been changed or eliminated. I am unable to conclude that the company has satisfied that burden.

AWARD

The grievance is sustained. The company is ordered to reinstate the 15 minute wash-up time for day maintenance employees in No. 4 BOF.

/s/ Terry A. Bethel

Terry A. Bethel

November 9, 1993