

DAVID A. PETERSEN, ARBITRATOR

In the Matter of Arbitration  
between

INTERNATIONAL STEEL GROUP, INC.  
Cleveland Plant

and

UNITED STEELWORKERS OF AMERICA

ARBITRATOR'S MEMORANDUM  
OPINION AND AWARD

Award Issued:  
February 7, 2003

Subject: Discharge - Alleged Threat Toward a Supervisor - Just  
Cause - Sufficiency of Evidence

Appearances of Representatives:

Thomas F. Wood  
Corporate Manager, Labor Relations  
On behalf of the Company

Mark A. Granakis  
International Representative  
On behalf of the Union

MEMORANDUM OPINION

ISG/USWA

This grievance, from the 84" Cold Mill at the Cleveland Plant, claims that Grievant was discharged without just cause, in violation of the Basic Labor Agreement between International Steel Group, Inc. and the United Steelworkers of America.

1

Grievant, an MTE, is charged with having threatened a Supervisor while at work on October 23, 2002. It is alleged that Grievant confronted Supervisor X in a Shift Manager's office at approximately 12:54 a.m., when no other employees or members of supervision were present, and repeatedly threatened to kill him.

2

Supervisor X testified that, at or about 11:40 p.m. on October 22, 2002, he met with Grievant and another MTE in the Electrical (MTE) Shanty and voiced his displeasure over Grievant's failure to have assisted him at the Pickle Line Bander on the previous night turn when the Supervisor called for Grievant's support there. Grievant acknowledged receiving the Supervisor's radio call the prior evening, and that he never reported to the Bander as requested. Grievant thought the need for his assistance had ended by the time he completed the crane job he was performing when he received Supervisor X's call. Supervisor X instructed Grievant in strong terms that, in the future, he expected Grievant to come whenever he was called. Grievant agreed without argument. Supervisor X said that when Grievant came to see him later in the shift, at approximately 12:54 a.m. on October 23, 2002, in a Shift Manager's office, Grievant shut the office door and twice told him that if the Supervisor ever talked to him that way again he would kill him. Grievant then walked out of the office. Supervisor X recalled telling Grievant to come back into the office and talk, and that Grievant simply turned and again threatened to kill him. The Supervisor took the threat seriously, and he therefore locked himself in the office and contacted Security. The Supervisor indicated that he has known Grievant for twenty years and never previously had a problem with him.

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The Company offered the testimony of another Shift Manager and a Security Supervisor in its direct case.<sup>1</sup> The Shift Manager stated that he had been with Grievant and another MTE, and possibly another employee, in the MTE Shanty from approximately 12:00 a.m. to 12:15 a.m. on October 23, 2002, and that there was no mention of Supervisor X having been there earlier in the shift to talk with Grievant about

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<sup>1</sup> Company and Union witnesses were sequestered and each was sworn, individually, before testifying.

the Bander incident the previous night. The Manager said he left the Shanty, went to the Tandem Mill, and then ran into the Security Supervisor who was responding to Supervisor X's call. The Manager commented that he was shocked upon hearing Supervisor X's report that Grievant had threatened him. The Manager recalled that he had supervised Grievant for eight to ten years and never had a problem with him; he considered Grievant to be one of the better employees, and he believed such a threat was totally out of character for Grievant. The Security Supervisor confirmed that Supervisor X contacted him at approximately 1:00 a.m. on October 23, and reported that Grievant had threatened his life three times. The Security Supervisor recalled that there were three or four employees in the MTE Shanty when he entered and took Grievant out to discuss the situation before escorting him from the plant. He noted that Grievant seemed surprised and repeatedly asked why he was being removed and why Supervisor X would do this to him. At the time, Grievant denied making any threat and claimed he had witnesses who could confirm his innocence.

Grievant testified that he was in the MTE Shanty from the time Supervisor X came into the Shanty at some point after 11:00 p.m. on October 22, 2002, to express his displeasure over Grievant's failure to have provided assistance at the Bander the previous night turn, until the time the Security Supervisor came into the Shanty around 1:00 a.m. on October 23, 2002 to escort him out of the plant. Grievant flatly denied that he left the Shanty during the interim period<sup>2</sup> or that he had been alone with Supervisor X or had gone to a Shift Manager's office and threatened Supervisor X. Grievant stated that another MTE had been in the Shanty with him the whole time, that a third employee had come into the Shanty after Supervisor X left and was still there when the Security Supervisor arrived, and that another Shift Manager had been in the Shanty with them for a time as well. Grievant said he has known Supervisor X for twenty years and has never argued with him.

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<sup>2</sup> In its rebuttal case the Company offered a Labor Relations Manager who stated that, during a hearing on October 24, 2002, Grievant said he left the Shanty at some point between 11:00 p.m. and 1:00 a.m. to re-lamp a crane and go to the bathroom. The witness agreed that, during a subsequent hearing, Grievant said he re-lamped the crane and went to the bathroom before going into the Shanty. She acknowledged the possibility that Grievant was confused at the first hearing, and that she did not know for a fact when Grievant re-lamped the crane or went to the bathroom.

The Union offered the testimony of the other MTE and the third employee identified by Grievant as having been in the MTE Shanty with him on October 23, 2002, during the time at which Grievant is alleged to have been in a Shift Manager's office threatening Supervisor X's life. The MTE stated that Supervisor X came into the Shanty some time after 11:00 p.m., made his strong remarks to Grievant and left within about five minutes. The MTE said the other employee then entered the Shanty and stayed until the Security Supervisor came to escort Grievant out of the plant at approximately 1:00 a.m. on October 23. A Shift Manager also came into the Shanty for a period, which he estimated as being about thirty minutes or so, between the time Supervisor X left the Shanty and the time the Security Supervisor arrived at the Shanty. Grievant was in the Shanty the entire time. The third employee testified and confirmed that he had been in the Shanty, with Grievant and the other MTE, for a period he estimated as being forty-five to ninety minutes before the Security Supervisor arrived.

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It cannot be disputed that threatening the life of a Supervisor is an extremely serious offense which, if proven, could provide just cause for discharge. Nor should there be any doubt here that if the weight of the credible evidence presented at the hearing was sufficient to convince the arbitrator that Grievant went to a Shift Manager's office at or about 12:54 a.m. on October 23, 2002 and threatened Supervisor X, as charged, this grievance would be denied.

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In this case, Supervisor X testified that Grievant confronted him in a Shift Manager's office at approximately 12:54 a.m. on October 23, 2002 and repeatedly threatened to kill him. Supervisor X concedes that there were no other witnesses to this incident. Grievant testified that he did not threaten Supervisor X, and he further denied that he was alone with Supervisor X or out of the presence of two other bargaining unit employees during the time period when this incident allegedly occurred. Those two witnesses testified as well, and they both supported Grievant's position that he was in the MTE Shanty, with them, at the time these threats were said to have been made.

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Supervisor X's account of October 23, 2002 and Grievant's account of October 23 are clearly irreconcilable. Admittedly, Supervisor X's testimony was not incredible, yet neither was Grievant's testimony or the testimony of the other witnesses who confirmed Grievant's account. There was no firm basis shown here to discredit any of the witnesses.

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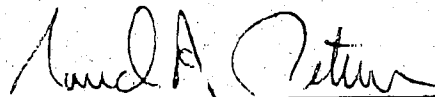
It is the Company which must establish that just cause existed for Grievant's discharge, and based on the evidence presented at the hearing the arbitrator is not convinced that such a standard was satisfied on this record. Thus, under these circumstances, Grievant's discharge cannot be permitted to stand. This grievance will be sustained, and the Company will be directed to reinstate Grievant and make him whole.

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AWARD

The grievance is sustained.

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David A. Petersen, Arbitrator