

INLAND STEEL COMPANY

and

UNITED STEELWORKERS OF AMERICA
Local Union 1010

Grievance No. 22-HA-81
Appeal No. 1166
Award No. 577

Opinion and Award

Appearances

For the Company:

Robert H. Ayres, Assistant Superintendent, Labor Relations
T. C. Granack, Labor Relations Representative
T. K. Tikalsky, Assitant Superintendent, Labor Relations
A. M. Kroner, Superintendent, No. 3 Open Hearth
A.A. Jones, Labor Relations Representative
L. Mitchell, Sr. Representative, Labor Relations
H. Powell, Melter Foreman, No. 3 Open Hearth
E. Penny, General Foreman, No. 3 Open Hearth

For the Union:

Peter Calacci, International Representative
John Sargent, President
William E. Bennett, Chairman, Grievance Committee
Joseph Gyurko, Grievance Committeeman
Stanley Nonucki, Assistant Grievance Committeeman

This is a disciplinary dispute involving the same grievant as Arbitration No. 576, which award is also being released today. Grievant, a Third Helper in the No. 3 Open Hearth, was discharged because of his conduct on the job October 31, 1964. He was given a five-day suspension letter on November 3 which stated:

"...you refused to work as directed by your foreman. When he approached you the second time to inform you that you must work as directed or go home, you used obscene language and threatened to 'get him'."

A hearing pursuant to Article IX, Section 1 of the Agreement followed, and on November 17, 1964 grievant was notified that he was discharged. This grievance challenges the discharge as unjust and unwarranted.

As in the companion case (Arbitration No. 576), this is primarily a fact issue, in which credibility must be appraised.

Grievant was assigned as Third Helper on No. 40 furnace. One of the duties of such a Third Helper is to handle the warning whistle at the time the furnace is tapped. Safety rules clearly require the use of the whistle immediately prior, during, and after the tap.

Melter Foreman White maintains that grievant had a bar in his hand and claimed he was about to clean the front flush. The whistle control is in

back. The Foreman ordered him to go to the back of the furnace, and the grievant is alleged to have refused and to have proceeded to the front flush instead. The Foreman repeated the order and coupled it with the alternative of going home, and the grievant is then said to have abused the Foreman with profanity and with a threatening attitude. The Foreman called for a plant guard, and grievant was escorted from the premises.

The grievant's version is very much different. He claims the Foreman instructed him to take a certain test and then gave the same instructions to another Third Helper. Grievant picked up a bar to clean the flush in front, but the Foreman made some unclear motions to him apparently related to the making of some test. This was a special heat and there were therefore two other Third Helpers in back of the furnace working with the Second Helper just before the tap. Grievant had gone off to obtain the detonator or "bomb" to be used in tapping this furnace. The confused orders concerning the test given to both grievant and the other Third Helper resulted in obscene language by the other Third Helper addressed to grievant and concerning the Foreman. Grievant insists that while he was cleaning the flush, the Foreman suddenly appeared and offered to bet \$10 he could send grievant home. Grievant claims he asked the Foreman what he wanted him to do but could get no answer other than a repetition of this offer to wager, followed shortly thereafter by the appearance of a plant guard.

These contradictions would seem to be impossible. Nevertheless, they are in the case and must be reckoned with. In the companion case we commented on grievant's difficulties with the English language and his sensitivity to criticism of his work. Until April, 1964 for some seven years his work as Third Helper was apparently satisfactory so far as his personnel file shows. In 1957 there was some criticism of his work but such criticisms are now in effect erased by virtue of the passage of time as provided in Article VII, Section 2 (Paragraph 135).

In Arbitration No. 576 grievant spoke with respect of the Melter Foreman with whom he clashed in this case. He suggests that his trouble in the earlier case in effect made him a marked man in the eyes of supervision as a whole. In evaluating the testimony of the two principals in this case, the grievant and the Melter Foreman, to determine which version of the events is more believable or likely, we should bear in mind this charge of general hostility against grievant to see whether there is any likelihood that it may have influenced the actions of either one.

The testimony of the assistant grievance committeeman was frank and helpful. While it was hearsay, it related to statements made shortly after the event, and it had a ring of truth because it did not strike me as being colored for the purpose of merely supporting the grievant. He testified that the First Helper who witnessed the entire incident reported that grievant did not curse or threaten the Foreman, that the Foreman made no offer to bet he could send grievant home, and that the Foreman did tell the grievant to go back and handle the whistle. He also testified another Third Helper who was working with the Second Helper in back of the furnace was told by the Second Helper to take over the whistle.

Grievant's version appears to have two major items which were fabrications. Since one of these relates to an order to perform a task which grievant apparently resisted, this lends strength to Management's view that there was just cause for discipline. On the other hand, the gilding of the lily in respect to the charge that grievant also verbally abused the Foreman and threatened him,

raises some doubt as to whether the Foreman was entirely sure of his ground for the severe penalty of discharge. It is not inconceivable that he may not have made his order to the emotional and sensitive grievant as clear as it should have been, considering his language problem and his excited state at that particular moment.

There is, then, definite support for disciplinary action. Grievant did not follow a proper order, and, in self-defense concocted a story about some imaginary offer by the Foreman to bet he could send grievant home. Grievant, however, may be penalized only for the acts which led to his being sent home, as they are summarized in the suspension letter of November 3, 1964, and not for the way he is alleged to have behaved at the investigation hearing.

A severe disciplinary penalty is justified, but, under all the circumstances, it should not go to the extent of discharge. It would be unwarranted for this grievant under these facts to be rewarded by pay for any period in which he has not worked for the Company, but he does not deserve to lose his seniority and to be terminated.

The remedial step set forth in Paragraph 135 of the Agreement would seem to be appropriate as to this grievant. He must understand, nevertheless, that he has barely escaped discharge, and that a further failure on his part to be attentive to orders of his supervisors and to comply with them in the normally expected manner will leave him with little or no defense to a charge of insubordination, which in view of his record will constitute just cause for discharge.

AWARD

This grievant shall be reinstated but with no back pay.

Dated: April 19, 1965

/s/ David L. Cole

David L. Cole
Permanent Arbitrator