

In the matter of Arbitration

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 Between )  
 Inland Steel Company ) Grievance No. 26-L-9  
 and ) Appeal No. 1213  
 United Steelworkers of ) Award No. 616  
 America, Local 1010 ) Opinion and Award  
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Appearances:

For the Company

- T. J. Peters, Arbitration Coordinator, Labor Relations
- R. H. Ayres, Assistant Director, Industrial Relations
- J. L. Federoff, Assistant Superintendent, Labor Relations
- W. P.Boehler, Senior Labor Relations Representative
- J. E. Blair, Senior Labor Relations Representative
- E. Smoltz, Superintendent, Transportation
- L. Harding, Assistant Superintendent, Transportation
- J. Gray, Trainmaster, Transportation

For the Union

- Theodore J. Rogus, International Staff Representative
- William Bennett, Chairman, Grievance Committee
- Julian Diaz, Grievance Committeeman
- R. Rechlicz, Grievant

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The Grievant is R. Rechlicz who on July 16, 1972 was acting as a conductor in the Switching Sequence, Transportation Department. He was disciplined with the loss of two turns because at approximately 2:45 a.m. the Switchman in his crew kicked a car which travelled about 1500 feet and ran through a switch and collided with a train on the Scale lead.

The grievance protests the discipline letter issued to him on July 17, 1972 as arbitrary and unjust and requests that it be removed from his file and that he be paid all the monies lost.

The position of the Company is that Grievant as conductor

was in charge of his crew, and it was his duty to see that the moves ordered by the Yardmaster were correctly planned and checked to make sure after an intervening period that the planned lineup was still in their favor. The Company relies on the job description of the conductor, and calls attention to the primary function which is to: "Direct switching crew in the movement and placement of cars in and out of plant," as well as the typical duty, among others: "c. Directs crew to move and place cars according to orders received."

The Union's response is that Grievant was engaged at the time in the work of checking cars on the Repair Shop Lead and properly agreed that the switchman working in conjunction with the engineer should kick a car down the ladder to the 4E Lead to the Scale Track, as ordered by the Yardmaster. The switch to the Scale Track had been properly set by this crew, but apparently in the period while they were engaged in the area of the Car Shop another crew had realigned that switch. The switchman on Grievant's crew was thoroughly experienced and fully qualified, having also served as a conductor. It was conceded by him and the Union that he was at fault for not making sure the switch was properly set before he kicked this car. Grievant was some 200 yards distant at the time and busy checking other cars, a type of procedure which was acceptable to the Company.

The switchman has been disciplined for his negligence, and this is not challenged. The Company feels that the conductor as the one in charge of the crew also deserves disciplining.

The criticism of the conductor does not seem to be over the fact that he was working separately from his crew at the time, but that he should have exercised his supervisory function to the extent of countermanding the switchman's order to kick the car until it was made sure that the switch was properly set. All crew members have portable radios, and the Company maintains that Grievant could have heard the switchman directing the engineer to proceed with the kicking operation and taken action accordingly. Yet in the minutes of both the Third Step and the Fourth Step it is stated that once a car is kicked, which is a function of the switchman, there is no way this action can be rescinded by the conductor.

It also seems that the Company approves of a qualified switchman taking care of a switching move while the conductor is checking cars at some other point.

Under the facts of this case, including the practices prevailing at the time, it is difficult to see how the conductor deserves to be subjected to a disciplinary penalty. That he has the general responsibility of directing the crew, in the light of the

operating methods apparently accepted by the Company, is not sufficient to make him chargeable for the kind of carelessness exhibited by this experienced switchman on this occasion. There are circumstances in which one in a supervisory capacity finds himself in a position in which he is in practical terms unable to take active control, and this seems to be an example.

AWARD

This grievance is granted.

Dated: September 18, 1974

/s/ David L. Cole

David L. Cole, Permanent Arbitrator

The chronology of this grievance is as follows:

Grievance filed	September 26, 1972
Step 3 appeal	September 29, 1972
Step 3 minutes	November 22, 1972
Step 4 appeal	November 29, 1972
Step 4 minutes	June 26, 1974
Arbitration Appeal	July 2, 1974
Arbitration Hearing	September 5, 1974
Date of Award	September 18, 1974