

In the matter of Arbitration

Between)
)
Inland Steel Company) Grievance No. 21-M-5
) Appeal No. 1215
 and) Award No. 619
)
United Steelworkers of) Opinion and Award
America, Local 1010)
)

Appearances:

For the Company

T. J. Peters, Arbitration Coordinator, Labor Relations
W. P. Boehler, Senior Labor Relations Representative
R. H. Ayres, Manager, Labor Relations, General Offices
J. L. Federoff, Assistant Superintendent, Labor Relations
R. Puhek, Investigator, Plant Protection
R. Hayes, Officer, Plant Protection
B. Harris, Foreman, No. 1 and No. 2 Cold Strip Mill
L. R. Barkley, Administrative Assistant, Labor Relations

For the Union

Theodore J. Rogus, International Staff Representative
John Hurley, Vice Chairman
Don Lutes, Jr., Griever
Regina Zieba, Witness
Tom Bryant, Witness
Alan Mosely, Assistant Griever
William R. Markowski, Grievant

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This is a discipline case. Grievant, William Markowski, insists that his discharge on September 19, 1974 was unjust and unwarranted in violation of Article 3, Section 1 and Article 8, Section 1 of the August 1, 1974 collective bargaining agreement. Article 4, Section 4 was added by the Union in the Third Step, and is the provision declaring that there shall be no discrimination against any employee because of race, color, religious belief, sex or national origin.

Grievant was hired by the Company on March 14, 1968, and was working in the Metallurgical Department for some time prior to September 7, 1974. On that date, which was a Saturday, he was scheduled to work as a Tester on

the 3 - 11 turn in the No. 1 and No. 2 Cold Strip Metallurgical Lab. He was suspended and subsequently discharged, the Company stated, because he made improper use of his gate pass, aided the unauthorized entry into the plant of a non-employee, attempted to impede the Company's investigation of the incident, and because of his unsatisfactory work record.

The non-employee, E. Chandler, was observed sitting with Grievant in the Metallurgical Lab for more than an hour, and when, according to the Company, a turn foreman of the No. 1 and No. 2 Cold Strip Mill, B. Harris, started to question him Grievant repeatedly interfered and tried to prevent this individual from telling the foreman anything, as well as trying to get him to return to Grievant the pay stub Grievant had allegedly given him to enable him to gain entry into the plant. The turn foreman called for assistance from Plant Protection and one of its officers, Acting Sergeant R. Hayes, questioned Chandler and then escorted him and Grievant to the Plant Protection office. There Chandler gave details which were put into a written statement and signed by him. He stated that he and Grievant had been friendly for five months, that Grievant arranged for him to visit the plant while Grievant was at work on this Saturday afternoon by taking him to the plant and letting him use Grievant's pay stub to get by the clockhouse guard. Chandler had filed a job application a few days before. While Foreman Harris was questioning him, Chandler said Grievant tried to have him hand back his pay stub.

Grievant himself refused to give a written statement but denied he knew Chandler, claiming that somehow his pay stub had been extracted from his wallet and used without permission by Chandler. He acknowledged, however, that he sat and conversed with Chandler in the Lab for more than an hour before Foreman Harris arrived and began asking questions.

In the subsequent investigations and hearings the contradictions became even more extreme, so much so that it is clear one version or the other has been deliberately fabricated. We have a classic credibility issue and we must determine under all the facts and circumstances which side is to be believed.

The introduction by the Union of Section 4 of Article 4, the anti-discrimination provision, is unusual. Grievant is white, while Foreman Harris, Plant Protection Officer Hayes, and Chandler are black. The suggestion on Grievant's part is that there was a frame-up concocted by these three to discredit him because he is white and to get him discharged.

Grievant insists that Harris has been trying to get him out of the plant for some time. At our hearing two employees appeared who testified that two or three years ago Foreman Harris made critical remarks about Grievant in connection with an incident involving the distribution or use of reefer paper. They did not identify the person to whom the foreman made this statement, and one of these witnesses although present at the Step 3

meeting did not mention this at the grievance meeting. The other added that the foreman had told somebody that if she testified at our hearing he would discredit or humiliate her, but, again, she could not name the person to whom this was said or when or where.

Grievant maintained he has had a good work record with the Company and that nevertheless Foreman Harris has been picking on him and showing his animosity. The facts are, however, that Grievant's work record has not been good. In less than two years he has been reprimanded or disciplined seven times, and in not one of these reprimands was Foreman Harris involved. Each reprimand or discipline statement was signed by two or three supervisors, and the name Harris does not appear on any of them. He has had disciplinary days off imposed on him four times for refusing to follow instructions of his supervisors or for ridiculing them and he has had repeated warnings. These culminated in a final warning on February 13, 1974 when for ridiculing a supervisor and disregarding directions he was given a disciplinary penalty of five days off, and was told that "any repetition of the above type conduct or any other violation of Company rules will result in your suspension preliminary to discharge."

Much of what occurred on September 7 seems clear on the evidence, although Grievant has attempted to contradict material parts of it. The non-employee, Chandler, was admittedly with Grievant in the lab for more than an hour, and he did have in his possession Grievant's pay stub which he had used to get by the clockhouse guard. Grievant definitely tried to gain possession of Chandler's wallet for the obvious purpose of removing the pay stub. While Chandler was being questioned he attempted repeatedly to interrupt and he made a distracting telephone call to the lab in order to give himself the chance to get the wallet, which turned out to be unsuccessful. Chandler's explanation was that he and Grievant were friends, that he had applied for a job with the Company and Grievant wanted him to see the conditions in the plant. Chandler with little hesitation turned over to Plant Protection the pay stub he said Grievant had lent him.

On behalf of Grievant it was argued that it would have been stupid on his part to do what he is said to have done, that he would thereby be endangering his job, and that the whole incident was a conspiracy or fabrication on the part of Harris, Hayes and Chandler in order to have him discharged.

Loss of his job is a serious matter to Grievant and it is true that what Grievant did was unwise. But a conspiracy to frame an employee on the part of a foreman and an acting sergeant in the Plant Protection department would be equally serious and unwise. If proven, their standing and their jobs could also be lost. Their denial of this charge was strong and unqualified.

Grievant stressed the fact that Chandler later repudiated the September 7 statement he gave to Plant Protection, saying he had done so to save

his own skin. But no explanation was given as to how he now claims to have gotten into the plant, or why, nor why he had Grievant's pay stub in his wallet or why he had been with Grievant in the lab for more than an hour. Moreover, if as Grievant asserts, Chandler was part of the conspiracy with Harris and Hayes to get him, there is no satisfactory explanation of why Chandler should suddenly have decided to support Grievant and to repudiate the damaging information he had recently given against Grievant, nor is there any intimation on Chandler's part that there was any substance whatever to Grievant's conspiracy charge.

Another employee, L. Bogielski, was present in the lab part of the time when Foreman Harris was questioning Chandler. He was there when Grievant was urging him to remain silent and was trying to regain possession of his pay stub both directly and by means of the diversionary telephone call. It is significant that Grievant did not have Bogielski appear on his behalf in the grievance hearing steps or at the arbitration hearing to support his version of the facts, or to dispute the testimony of Messrs. Harris and Hayes or the statement Chandler gave to Plant Protection.

Considering the facts set forth above and the weaknesses in the version advanced by Grievant, one cannot avoid the conclusion that the credible evidence is that offered in support of Company's justification for discharging Grievant.

AWARD

This grievance is denied.

Dated: April 2, 1975

/s/ David L. Cole

David L. Cole, Permanent Arbitrator

The chronology of this grievance is as follows:

Grievance filed (step 3)	September 20, 1974
Step 3 hearing	September 26, 1974
Step 3 minutes	October 18, 1974
Step 4 appeal	October 30, 1974
Step 4 hearing	December 10, 1974
Step 4 minutes	January 24, 1975
Appeal to arbitration	February 3, 1975
Arbitration hearing	March 21, 1975
Date of Award	April 2, 1975