

In the Matter of the Arbitration Between

INLAND STEEL COMPANY

AND

UNITED STEELWORKERS OF AMERICA
AND ITS LOCAL UNION 1010

U. S. W. A.
JUN 0 2 1978
PITTSBURGH, PA.

Grievance No. 20-M-19

Appeal No. 1243

Award No. 643

Grievance of
G. Spudic

INTRODUCTION

An arbitration hearing between the parties was held in Harvey, Illinois, on May 17, 1978.

APPEARANCES

For the Company:

Mr. W. P. Boehler, Arbitration Coordinator, Labor Relations
Mr. T. L. Kinach, Senior Labor Relations Representative
Mr. G. Lundie, Director, Safety and Plant Protection
Mr. J. J. Santini, Assistant Superintendent, Central Mechanical
Mr. M. Matusik, Foreman, Rigger Shop, Central Mechanical
Mr. J. Horgash, General Foreman, Rigger Shop, Central Mechanical
Mr. G. Shore, Assistant General Foreman, Rigger Shop, Central Mechanical
Mr. L. R. Barkley, Administrative Assistant, Labor Relations
Mr. D. F. Kilberg, Sr., Staff Coordinator, Assessment and Development, Training

For the Union:

Mr. Theodore J. Rogus, Staff Representative
Mr. Michael Mezo, Griever

Mr. Joseph Gyurko, Chairman, Grievance Committee
Mr. Phil King, Acting Secretary, Grievance Committee
Mr. George M. Spudic, Grievant

Arbitrator:

Mr. Bert L. Luskin

BACKGROUND

George M. Spudic was employed by the Company on December 15, 1959. He is a qualified Standard Rigger assigned to the Rigger Shop. The Rigger Shop is a division of the Central Mechanical Maintenance Department and provides rigger services for various departments throughout the plant.

On May 3, 1975, Spudic was a member of a four-man rigger crew (day turn) whose first assignment involved the erection of a scaffold in the 76-inch hot strip mill. They completed that task at approximately 10:00 A.M. and were on a break when their foreman (Matusik) was informed that there had been a breakdown on the No. 2 mold yard gantry crane located on the east side of the No. 2 BOF Department. The crew proceeded to the area and found that the tong hoist and the open-and-close cables had to be changed. The crane was in an unprotected area and, when it began to rain, the crew asked for raincoats. The foreman left the area, obtained four sets of rainwear, returned and offered them to the crew. All of the initial evidence in the record indicated that three members of the crew accepted the rainwear (each one consisted of a coat and pants).

Spudic refused to accept the rainwear offered to him, insisting that he would not wear it because it was dirty and greasy. The crew proceeded to change the tong hoist and completed that task at approximately 12:45 P.M. The crew drove a truck to the west side of the No. 2 BOF Department where they entered the building and proceeded to the machinist shanty where they ate their lunch.

When the tong hoist had been changed it became possible to move the crane. Foreman Matusik directed the craneman to move the crane in a southerly direction on the tracks, which brought the crane under a roof. The crew was not informed that the crane had been moved.

At approximately 1:15 P.M. Foreman Matusik directed the crew to return to the job site and complete the assignment by changing the open-and-close cable. That assignment could have been completed in less than thirty minutes. There is some conflict with respect to the events which transpired thereafter.

Foreman Matusik contended that he had directed the crew to return to the job site and complete the assignment. It was Foreman Matusik's testimony that when he asked the crew to return to the job site, Spudic responded by stating "No way I'm going back." Matusik testified that the other three members of the crew made no comment and made no move to return to the job site. Matusik testified that, after asking the men to return to the job site

and after they had made no move to return, he ordered them to return to the job site on three different occasions. It was his testimony that all members of the crew remained silent and made no response. A member of the crew named Respecke stated "My shoes are wet," to which Matusik responded by stating "My clothes are wet too."

The four members of the crew were sent home and charged with the commission of an insubordinate act. There is evidence in the record that the assignment was completed by a crew of riggers who reported for work at 4:00 P.M. and the task of changing the open-and-close cable was completed in approximately twenty-five minutes.

On May 5, 1975, Spudic (and the other members of the crew) were informed that they were being disciplined for the balance of the turn (May 3, 1975) and one additional day of suspension.

Spudic filed a grievance protesting the imposition of the disciplinary measure, contending that he had been suspended after he had sought relief from a job that he felt was unsafe.

Spudic's grievance was processed through the preliminary steps of the grievance procedure and the issue arising therefrom became the subject matter of this arbitration proceeding.

DISCUSSION

The provision of the Agreement cited by the parties as applicable in the instant dispute is hereinafter set forth as follows:

"ARTICLE 14

"SAFETY AND HEALTH

14.7 "SECTION 6. DISPUTES. An employee or group of employees who believe that they are being required to work under conditions which are unsafe or unhealthy beyond the normal hazard inherent in the operation in question shall discuss the complaint with his or their foreman. Following such discussion, the oral disposition form provided for in Step 1 of Section 3 of Article 6 shall be immediately prepared, signed, and distributed as therein provided. If the complaint remains unsettled, the employee or group of employees shall have the right to: (a) file a grievance in Step 3 of the grievance procedure for preferred handling in such procedure and arbitration or (b) relief from the job or jobs, without loss to their right to return to such job or jobs; and, at the Company's discretion, assignment to such other employment as may be available in the plant; provided, however, that no employee, other than communicating the facts relating to the safety of the job, shall take any steps to prevent another employee from working on the job. Should either the Management or the arbitrator conclude that an unsafe condition within the meaning of this Section existed and should the employee not have been assigned to other available equal or higher-rated work, he shall be paid for the earnings he otherwise would have received."

The Company contended that the refusal of Spudic (and other members of his rigger crew) to carry out the work assignment was an insubordinate act and was completely unrelated to the safety

issue that was raised only after discipline had been invoked against Spudic and others in the crew. The Company contended that neither Spudic nor anyone in the crew asked for relief from the assignment pursuant to the requirements of Article 14, Section 6. The Company contended that the crew complained only of discomfort occasioned by wet shoes and Spudic's wet clothing after the men had worked in the open and in the rain for a period of some two hours. It was the Company's contention that if the crew had returned to the job site they would have noted that the crane had been moved to a position in the yard where the remaining portion of the assignment could have been completed under a roof and with protection from the elements.

The Union contended that Spudic (and others) had complained about wet clothing and the danger involved in climbing under circumstances where the work had to be performed in the open at a time when it was raining. The Union contended that the foreman had offered Spudic a dirty and greasy rain coat and rain trousers, and the Union contended that the statements made by Spudic (and others) to the foreman did result in advising the foreman that Spudic (and others) considered the continuation of the work assignment to be an "unsafe or unhealthy" assignment "beyond the normal hazard inherent in the operation...." The Union contended that Spudic had complained to his foreman and

that under those circumstances the complaint should have been accepted as a legitimate complaint pursuant to the language of Article 14, Section 6. It was the contention of the Union that under those circumstances the foreman should have immediately prepared, signed and distributed the required contractual form and, since there was no resolution of the problem, the grievant was entitled to relief from the job. It was the contention of the Union that Spudic (and the others) sincerely believed that they were being required to work under conditions that were unsafe and unhealthy and they made their position known to the foreman who thereafter failed to follow the required contractual procedures.

All of the competent evidence in the record indicates that riggers may be required to work in inclement weather. There is evidence in the record that riggers (on an assignment involving a breakdown) will work in cold weather, rainy weather and in snow. There is evidence in the record that the assignment in question was a customary, usual type of assignment that is regularly performed by riggers and there was nothing unusual about the conditions that existed on the day in question. The crew may have been uncomfortable and their shoes may have become wet. Spudic's outer clothing became wet because he refused to wear the rainwear that had been offered to him. Those conditions, however, would not have constituted conditions or circumstances that would have required Spudic and the others to complete an assignment that was unsafe or unhealthy or "beyond the normal hazard inherent in the operation...."

The major portion of the repair function had been performed by Spudic's crew over a two-hour period during which they worked in the open and without cover. They broke for lunch and had their lunch under cover. They may not have been aware of the fact that the crane had been moved and was at that time in a protected area. They were obviously uncomfortable, but conditions were neither unhealthy nor unsafe. One man would have worked at the top from a protected platform for a relatively few minutes. Other members of the crew would have worked on the ground for a short period of time until the open-and-close cables were changed.

Employees are not required to use the precise formal contractual language appearing in Article 14, Section 6, when they ask for relief from an operation which they believe to be unsafe or unhealthy "beyond the normal hazard inherent in the operation." The fact remains, however, that they must "believe" that the assignment under the prevailing condition was unsafe or unhealthy beyond the normal hazard inherent in the operation. In the opinion of the arbitrator the evidence will not support a conclusion or finding that Spudic "believed" that the assignment would have required him to work under conditions which were unsafe or unhealthy beyond the normal hazard inherent in the operation. Spudic was obviously angry. He did not relish going out in the rain to complete an assignment under circumstances where he was wet, his

clothing was damp and he was uncomfortable. He had worked for approximately two hours under adverse conditions, but those adverse conditions were not unusual nor were they unsafe or unhealthy. The conditions were typical of conditions that might be present on other types of assignments made to riggers. The reference made by Spudic concerning his desire to change into dry clothes and a reference made by one other member of the crew that his shoes were wet, would conclusively demonstrate that Spudic (and the others) were more concerned with their feeling of discomfort than with a safety problem or the performance of an operation which would be unsafe or unhealthy "beyond the normal hazard inherent in the operation."

In the opinion of the arbitrator, the determination in this case is consistent with the opinions expressed by all other arbitrators whose decisions were cited by the Company and the Union on similar issues, including the decisions of former Umpire Cole when he interpreted and applied similar contractual language.

The arbitrator must, therefore, find that the Company had just cause for imposing a one-day suspension against the grievant. The Company could not be deemed to have violated the provision of Article 14, Section 6, when it insisted that Spudic complete the assignment which he had begun on May 3, 1975.

AWARD NO. 643

Grievance No. 20-M-19

The grievance of G. Spudic is denied.

But L. Luskin
ARBITRATOR

May 31, 1978

CHRONOLOGY

Grievance No. 20-M-19

Grievance filed in Step 3	June 24, 1975
Step 3 hearing	July 16, 1975
Step 3 minutes	August 19, 1975
Step 4 appeal	August 25, 1975
Step 4 hearings	June 11, 1976
	June 22, 1976
	January 12, 1977
	August 2, 1977
Step 4 minutes	April 12, 1978
Appealed to arbitration	April 13, 1978
Heard in arbitration	May 17, 1978
Award issued	May 31, 1978