

Award No. 662
In the Matter of the Arbitration Between
INLAND STEEL COMPANY
AND
UNITED STEELWORKERS OF AMERICA
AND ITS LOCAL UNION 1010

Grievance No. 22-N-36

Appeal No. 1260

Arbitrator: Burt L. Luskin

April 30, 1979

INTRODUCTION

An arbitration hearing between the parties was held in Harvey, Illinois, on April 17, 1979.

APPEARANCES

For the Company:

Mr. T. L. Kinach, Arbitration Coordinator, Labor Relations

Mr. Robert H. Ayres, Manager, Labor Relations

Mr. C. V. DeWitt, Assistant Superintendent, No. 3 Open Hearth

Mr. R. Smith, General Foreman, Locomotives & Equipment, Transportation

Mr. E. Mackowiak, Ingot Delivery Foreman, No. 4 BOF and Slab Caster

Mr. R. Vela, Labor Relations Coordinator

Mr. J. T. Surowiec, Labor Relations Representative

Mr. W. W. Gillespie, Labor Relations Coordinator

Mr. R. Vasquez, Check No. 1831, No. 4 BOF and Slab Caster, Witness

Mr. R. Perry, Check No. 8444, Transportation, Witness

Mr. Y. Gonzales, Check No. 673, No. 4 BOF and Slab Caster, Witness

For the Union:

Mr. Theodore J. Rogus, Staff Representative

Mr. Joseph Gyurko, Chairman, Grievance Committee

Mr. Leonard R. Koblack, Grievant

BACKGROUND

Leonard R. Koblack was employed by the Company on August 2, 1973. He was assigned to the No. 3 Open Hearth Department where he performed clerical functions.

On June 26, 1978, Koblack worked the midnight shift and completed that shift of work at approximately 6:30 A.M. Koblack then proceeded to the in-plant bus stop where a number of other employees were standing in an area adjacent to a building used as a shelter for bus passengers. Koblack approached an employee named Robert Vasquez who was a clerical employee of the No. 4 BOF and Slab Caster Department.

A short time thereafter Vasquez returned to his working area and informed his supervisor (Mackowiak) that he had been accosted by Koblack. Vasquez stated that Koblack had cursed him, threatened him, and had physically assaulted him. Vasquez reported that he had not made any aggressive moves and that he had, in fact, pleaded with Koblack to be left alone and unharmed.

On June 27, 1978, a formal investigation was held at the No. 3 Open Hearth Department (Koblack's area of employment). The grievant, the Union representative, Vasquez, Bargaining Unit employees who had witnessed the incident, and other members of supervision were present. At the conclusion of the investigating meeting, Koblack was suspended preliminary to discharge for violation of Rules No. 127-a (Fighting on Company Property) and No. 127-p (Use of Profane, Abusive or Threatening Language) of the General Rules for Safety and Personal Conduct. The Company also considered Koblack's prior record of discipline dating back to January, 1974.

Koblack requested a hearing, and a hearing was held (pursuant to Article 8, Section 1) on July 5, 1978. The Union's representative and the grievant asked for the grievant's reinstatement. That request was denied and the Company concluded that Koblack should be terminated from employment. Koblack was notified of the termination on July 17, 1978, and on July 19, 1978, a grievance was filed requesting Koblack's reinstatement to employment. The request was subsequently amended to ask for reinstatement without reimbursement for time lost from work. The grievance was denied and the issue arising therefrom became the subject matter of this arbitration proceeding.

DISCUSSION

The testimony offered by Vasquez was corroborated in all of the essential details thereof by two Bargaining Unit employees (Perry and Gonzalez). Both of those employees were at the bus stop awaiting transportation. Both witnesses heard the words used by Koblack and both employees saw Koblack grab Vasquez' shirt.

Koblack was admittedly angry with Vasquez since he believed that Vasquez was the source of rumors concerning the alleged use by Koblack of a hypodermic needle to inject illegal drugs in his (Koblack's) arm. Vasquez denied ever spreading any rumors concerning Koblack and, after Koblack had thrown some shredded paper in Vasquez' face, Vasquez had said to Koblack "leave me alone." Koblack then reached for Vasquez who tried to back away. Koblack directed profane expressions toward Vasquez, made threatening statements, pushed Vasquez and grabbed Vasquez' shirt at the throat. Vasquez' shirt was torn, he had scratches on his neck, and he testified that he had been struck on the chin by Koblack's arm when Koblack reached out and grabbed him by the shirt. There is testimony in the record that when Vasquez stated to Koblack that he intended to report the incident to members of supervision, Koblack responded by stating "Go ahead; but if you make me lose my job, I'll kill your ass."

Koblack testified that he did greet Vasquez and tell Vasquez that he objected to Vasquez' spreading of a false rumor concerning Koblack's use of a needle in connection with the injection of narcotics. He testified that, although the rumor had persisted for some period of time, he had learned from a fellow employee that Vasquez was spreading that rumor. He testified that he merely "discussed" the matter with Vasquez at the bus stop, and after Vasquez had called him (Koblack) a "junkie" Koblack did direct some profane expressions toward Vasquez. Koblack testified that Vasquez pointed his finger in Koblack's direction and stuck his finger in Koblack's neck. Koblack testified that he then grabbed Vasquez by the shirt, but he denied that he had struck Vasquez. Koblack testified that both he and Vasquez had become angry and the argument had become heated and he realizes now that he should not have become involved in that kind of an incident. He testified that he had personally asked for restoration to employment and that he informed the Company that he was willing to return to work without back pay, since he had been unable to find other employment since his termination in July, 1978.

The Union contended that it does not condone the action of the grievant and the Union contended that it could not condone any action by Vasquez that would constitute a spread of a malicious rumor about a fellow employee. The Union contended that the entire incident involved a relatively minor form of physical contact. The Union contended that since no physical harm resulted and since Vasquez did not require any medical treatment, the penalty of discharge for the events which occurred on the day in question was too severe a penalty for the degree of the committed offense. The Union contended that the rules themselves make provision for the imposition of penalties much less severe than that of termination, depending upon the facts and circumstances in each case. The Union pointed to the fact that a period of suspension dating back to the date of discharge would be a most severe penalty for the offense committed by Koblack since he would have been away from work for a period of approximately ten months. The Union requested that Koblack be restored to employment and the penalty of discharge be modified to that of a penalty of suspension without pay.

The Company pointed to the fact that the Union's request for mitigation of the penalty of discharge in this case should not be considered in view of Koblack's prior record of discipline during the period between January 30, 1974, and the date of his termination from employment. The Company pointed to the fact that Koblack had been suspended for sleeping on the job and he had been suspended for leaving the job early. On June 1, 1976, he had been suspended for a period of four turns for fighting in the plant. The Company contended that although the June, 1976 offense committed by Koblack could have resulted in his termination, he had been restored to employment after a four-day suspension and given a final warning. The Company contended that the incident which led to Koblack's termination constituted an offense similar to the one for which he was suspended in June, 1976, and given a final warning. The Company contended that Koblack was the aggressor; that Koblack had cursed Vasquez and had threatened Vasquez with bodily harm. The Company contended that Koblack committed a physical assault upon Vasquez and had thereafter threatened Vasquez' life if he reported the matter to supervision. The Company contended that, under those circumstances, the penalty of termination against Vasquez should be sustained.

The evidence is clear and convincing. Vasquez did not start an argument. He made no threatening gestures toward Koblack and he uttered no words which could be considered to constitute provocation for the commission of the verbal and physical assaults by Koblack upon Vasquez.

The Company and the Union are equally concerned with the safety and well-being of the employees who work at this plant. The applicable plant rules are designed to discourage the commission of verbal or

physical assaults, and Vasquez had every right to believe that he would be free from harm while on Company premises. Koblack had no right to "lay hands" upon Vasquez. He had no right to threaten Vasquez and he had no right to verbally abuse him. Koblack had been suspended for four turns in 1976 for fighting in the plant. He was well aware of the fact that if he engaged in a physical altercation with a fellow employee he subjected himself to disciplinary measures which could result in his termination from employment. Circumstances in this case would not warrant or justify the modification of the penalty of discharge to that of a prolonged period of suspension from employment.

The arbitrator must find that Koblack did violate Plant Rules Nos. 127-a and 127-p, and the facts and circumstances surrounding the violation of those rules would have justified the imposition of the penalty of termination from employment.

For the reasons hereinabove set fourth, the arbitrator must find that just cause existed for the termination of Leonard R. Koblack from employment pursuant to the provisions of Article 3, Section 1, and Article 8, Section 1, of the Collective Bargaining Agreement.

AWARD

Grievance No. 22-N-36

Award No. 662

The grievance is hereby denied.

/s/ Burt L. Luskin

ARBITRATOR

April 30, 1979