

Award No. 665  
In the Matter of the Arbitration Between  
INLAND STEEL COMPANY  
AND  
UNITED STEELWORKERS OF AMERICA  
AND ITS LOCAL UNION 1010

Grievance No. 27-N-22

Appeal No. 1274

Arbitrator: Burt L. Luskin

September 28, 1979

#### INTRODUCTION

An arbitration hearing between the parties was held in Harvey, Illinois, on August 28, 1979.

#### APPEARANCES

For the Company:

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

Mr. R. H. Ayres, Manager, Labor Relations, Industrial Relations

Dr. D. K. Winter, Associate Medical Director

Mr. A. J. Spak, Administrative Supervisor, 12" Mill

Mr. B. Rnich, General Foreman, Finishing, Shipping & Pickling, 12" Mill

Mr. J. T. Surowiec, Senior Labor Relations Representative

For the Union:

Mr. Theodore J. Rogus, Staff Representative

Mr. Don Lutes, Acting Chairman, Grievance Committee

Mr. Larry Wolendowski, Acting Secretary

Mr. Rosendo Pena, Griever

Mr. Floyd Anderson, Grievant

#### BACKGROUND

Floyd Anderson was employed by the Company on June 24, 1963. In 1974 Anderson worked in the 12" Bar Mill and held the position of pickler in the pickling sequence.

On September 16, 1974, Anderson reported off and informed the Company that he would be away from work for a period of time because of scheduled throat surgery which was to be performed at Hines Veterans Hospital in Hines, Illinois. The surgery was performed and the Company was thereafter informed that Anderson was receiving treatment for hypertension and would be unable to return to work for some period of time. The Company thereafter received reports and verification of Anderson's hospitalization at Hines Veterans Hospital. The Company also received medical reports of Anderson's condition, his treatment, and the medical verification of the necessity for his continuing absence from work.

On May 24, 1978, Anderson appeared at the Company offices and presented himself at the Inland Clinic. He submitted a full and unconditional release to return to work that was signed by a physician associated with Hines Veterans Hospital. That release in part read as follows:

"This is to certify that this patient is now ready to return to work. May 24, 1978."

Anderson submitted a Hines Veterans Hospital clinical record form which diagnosed the condition for which he had been treated as "obesity" and "hypertension." The clinical record indicated that Anderson had been treated on numerous occasions for "follow-up care." His last day of treatment was April 6, 1978, and Anderson was scheduled to return to the hospital for further out-patient treatment or observation on July 27, 1978. The clinical record closed with the following statement:

"The decision as to when the veteran may return to work rests with the Company physician, as he is more familiar with the job requirements."

Anderson was asked to return to the Clinic on May 25, 1978, at which time his blood pressure was checked on two occasions and it was found to be 152/120 and 165/120. Since the Company's acceptable limit was 150/90, Anderson was not released for return to work and he was asked to return for further blood pressure readings.

Anderson returned to the Inland Clinic on May 30, 1978. His blood pressure reading was 124/84, and a second reading registered 130/90. Anderson's weight was taken and registered at 229 pounds. The Company's Medical Department concluded that, since Anderson had been off from work for almost four years due to hypertension and since he had been hospitalized twice in that period of time for that condition, those facts (together with his evident obesity) resulted in the placement of a medical restriction upon

Anderson. Anderson would be required to avoid "strain and exertion." Anderson returned to the Clinic on June 7, 1978. His weight was recorded as 229.5 pounds and his blood pressure reading was 120/90. At a placement meeting held on June 5, 1978, Company representatives who were made aware of the medical restriction concluded that Anderson could not be permitted to return to work in his regular occupation. Since they believed that there was no other work available in the Department which Anderson could safely perform (within his medical restriction), Anderson was not permitted to return to work. Andersen was asked to return for weekly blood pressure measurements, and he agreed to do so. He returned for further readings on a weekly basis. The records of blood pressure readings and recorded weights are hereinafter set forth as follows:

Date	Blood Pressure - Weight
May 24, 1978	152/120 and 165/120
May 30, 1978	124/84 and 130/90 - 229 lbs.
June 7, 1978	120/90 - 229.5 lbs.
June 16, 1978	164/120 - 232 lbs.
June 23, 1978	146/104 - 222 lbs.
June 30, 1978	140/98 - 214 lbs.
July 7, 1978	140/100 - 207 lbs.
July 14, 1978	148/100 - 204 lbs.
July 21, 1978	148/102 - 202 lbs.
July 28, 1978	144/104 - 205.5 lbs.
August 4, 1978	154/116 - 201 lbs.

The Company, upon evaluating the results of the blood pressure readings as hereinabove set forth, concluded that the restriction placed upon Anderson in May, 1978, should be continued and he was not permitted to return to work.

Anderson filed a grievance on October 12, 1978, contending that he had been placed on medical lay off without cause. The grievance requested that Anderson be placed back on his regular job and paid moneys that he was caused to lose from May 24, 1978. The grievance contended that the Company had violated the provisions of Article 3, Section 1, and Article 13, Sections 1, 2 and 11, of the Collective Bargaining Agreement.

On January 23, 1979, Anderson presented himself at the Inland Clinic with an unconditional release to work signed by a Dr. O. H. Williams. That release stated that Anderson had been under Dr. Williams' care for hypertension and that Anderson had been on prescribed medication (from Hines Hospital) prior to his initial visit to Dr. Williams on January 11, 1979. The release stated that blood pressure readings taken on January 11, January 16, and January 23, 1979, were 122/86, 110/80 and 120/80 respectively. The statement concluded with the following words: "He may return to work 1-24-79." The Inland Clinic thereafter conducted a complete physical examination of Anderson. Anderson's weight at that time had been reduced from 229 pounds to 191 pounds. His blood pressure reading was 130/90. Anderson was released to return to work at the conclusion of that examination on January 29, 1979. Anderson reported for work on January 30, 1979, and he worked thereafter without incident. Anderson's occupation was changed (at his request) from that of a pickler to that of a grinder and, at the time of the arbitration hearing, he was working as a grinder-chipper.

The grievance filed by Anderson on October 12, 1978, was processed through the grievance procedure. The grievant contended that he had been improperly denied the opportunity to return to work May 24, 1978, and he requested that he be compensated for all moneys lost for the period between May 24, 1978, and the effective date of his return to work on January 30, 1979.

The grievance was denied and was thereafter processed through the remaining steps of the grievance procedure. The issue arising therefrom became the subject matter of this arbitration proceeding.

#### DISCUSSION

Anderson had been away from work for almost four years. The Company was aware that the primary cause for the extended absence from work was Anderson's high blood pressure. When Anderson presented himself to the Inland Clinic on May 25, 1978, his blood pressure was taken on two occasions. The readings were substantially above acceptable levels and Anderson was asked to return for further checks. Blood pressure readings on May 30, 1978, and June 7, 1978, were well within acceptable limits and, although

Anderson's weight was 229 pounds at that time, there would have been no reason to have denied Anderson the right to return to work if subsequent blood pressure checks were within normal ranges. On June 16, 1978, Anderson's blood pressure reading was 164/120 and he weighed 232 pounds. The Company considered his blood pressure to be elevated to a degree that was dangerous and could have justified his immediate hospitalization.

Anderson contended that when he appeared at the Inland Clinic on June 16, 1978, for the blood pressure test he informed a doctor that he had been involved in an auto accident in front of the Clinic and had been required to submit a report to police officers shortly before the blood pressure reading had been taken. Anderson testified that the doctor indicated that he would make a record of that incident. Anderson testified that on a subsequent occasion when the blood pressure readings were elevated he had informed the doctor that he had been stopped by police for speeding and that he was still nervous at the time that the test was made. He testified that a Company doctor had promised to note that incident in the record, and that the doctor had failed to do so.

An analysis of blood pressure tests taken at the Inland Clinic on a weekly basis between June 23 and August 4, 1978, indicated that, although the systolic readings were within acceptable limits, the diastolic readings were above the Company's acceptable limits. Sometime thereafter Anderson's doctor submitted a report wherein she stated that an average diastolic reading of 105 would be considered to be "slightly elevated." She also referred to a reading of 138/96 as being "within normal limits" even for a patient like Anderson who had a history of high blood pressure and was under medication for that condition.

Anderson testified that he had received Social Security disability benefits for a substantial period of time during his absence from work and that his disability benefits were discontinued after three different doctors certified that he could no longer receive Social Security disability benefits since he was physically able to return to work.

It should be noted that at the time the Company Clinic took the last blood pressure reading from Anderson in August, 1978, his weight had been reduced from a high of 232 pounds to 201 pounds. The weight loss was drastic since it took place within a period of a little more than six weeks.

Anderson never underwent physical examinations by Company doctors until shortly before he was returned to full and active employment on or about January 30, 1979. The Company's Associate Medical Director testified that varying conditions could cause substantial and significant variations in the blood pressure readings. Although blood pressure readings of 150/90 may be used as a reasonable guide to determine acceptable limits, the fact remains that slight elevations above those readings would not necessarily indicate that an employee would be placed in jeopardy if he was returned to active employment unless there were other contributing factors that would justify the placement of a medical restriction.

When Anderson was informed that he was placed on medical restriction, he accepted that fact. He returned regularly and periodically for blood pressure tests and he did not file a grievance protesting the medical restriction that served to preclude his return to active employment. The first formal protest made by Anderson was the grievance which he filed on October 12, 1978, shortly after he had registered an oral complaint concerning the Company's refusal to permit him to be restored to active employment.

There is nothing in this record that would indicate that Anderson could not be reasonably expected to be able to safely perform the regular duties of his occupation. The fact remains that when he returned to active employment he almost immediately asked for and received placement in a position (grinder) which was substantially more physically demanding than the position which he had held immediately preceding the commencement of his extended period of absence from the plant.

The Company has the right and the obligation to make reasonable provisions for the health and safety of employees and the Company has the right to withhold an employee from active employment on the basis of reasonable medical evaluations. The fact remains, however, that in the instant case the continued placement of a medical restriction upon Anderson for prolonged periods of time was unreasonable and served to deny Anderson his contractual seniority rights to restoration to employment. Anderson should have been restored to employment with full seniority rights within a reasonable period of time after the periodic blood pressure readings and checks had indicated that the systolic readings were well within limits and the diastolic readings, although elevated, were not dangerously so. Anderson could no longer be considered to be dangerously obese, since his weight had been reduced from 232 pounds to 201 pounds by the early part of August, 1978.

The medical restriction should have been removed and Anderson should have been restored to employment much earlier than January 30, 1979. The effective date of his restoration for back pay purposes would have

to be based upon the date Anderson filed his grievance and protested the Company's refusal to restore him to active employment.

For the reasons hereinabove set forth, the award will be as follows:

**AWARD**

Grievance No. 27-N-22

Award No. 665

The grievance is sustained. Floyd Anderson shall be entitled to back pay and other contractual benefits retroactive to the date of the filing of the grievance on October 12, 1978.

/s/ Burt L. Luskin

**ARBITRATOR**

September 28, 1979