

Award No. 671
In the Matter of the Arbitration Between
INLAND STEEL COMPANY
AND
UNITED STEELWORKERS OF AMERICA
AND ITS LOCAL UNION 1010
Grievance No. 20-N-29
Appeal No. 1272
Arbitrator: Burt L. Luskin September 28, 1979
INTRODUCTION

An arbitration hearing between the parties was held in Harvey, Illinois, on August 29, 1979.

APPEARANCES

For the Company:

Mr. J. T. Surowiec, Senior Labor Relations Representative
Mr. R. H. Ayres, Manager, Labor Relations, Industrial Relations
Mr. T. L. Kinach, Arbitration Coordinator, Labor Relations
Mr. J. J. Santini, Assistant Superintendent, Central Mechanical Maintenance
Mr. W. P. Boehler, Assistant Superintendent, Labor Relations
Mr. C. Foreman, General Foreman, Mobile Equipment Repair, Central Mechanical Maintenance
Mr. R. Fryman, Assistant General Foreman, Mobile Equipment Repair, Central Mechanical Maintenance
Mr. M. L. Mayfield, Foreman, Mobile Equipment Repair, Central Mechanical Maintenance
Mr. G. Kramer, Foreman, Mobile Equipment Repair, Central Mechanical Maintenance
Mr. P. Boer, Foreman, Mobile Equipment Dispatch, Yard
Mr. R. Meinert, Foreman, Rail Car Repair, Central Mechanical Maintenance
Mr. R. T. Larson, Labor Relations Coordinator

For the Union:

Mr. Theodore J. Rogus, Staff Representative
Mr. Don Lutes, Acting Chairman, Grievance Committee
Mr. Michael Mezo, Griever
Mr. Araldo Manzo, Griever
Mr. Thomas James Joyce, Grievant

BACKGROUND

Thomas James Joyce was employed by the Company on April 12, 1977. He worked as a janitor and his last assignment was to the Mobile Equipment Repair Shop, Central Mechanical Maintenance Department. Joyce was scheduled to work a shift commencing at 6:00 A.M. and ending at 2:00 P.M. on January 19, 1979. Employees in his assigned area are generally scheduled to report for shift starting at 7:00 A.M. His earlier start was occasioned by the need for his services to perform office clean-up functions commencing at 6:00 A.M.

Joyce's immediate supervisor was Turn Foreman Monroe Mayfield. Mayfield arrived in the Department at approximately 6:25 A.M. on January 19, 1979. He noted that an office had not been cleaned. He spoke with Foreman Meinert who was completing the midnight turn of work as the supervisor in that area, and he asked Meinert whether Joyce had been seen in the area at or after 6:00 A.M. Meinert allegedly informed Mayfield that he had not seen Joyce in the area. At about that time Mayfield saw Joyce approaching the area of the office. Foreman Mayfield then instructed his clerk to punch Joyce's timecard indicating a 6:30 A.M. arrival. That resulted in docking Joyce for the first half hour of Joyce's shift of work.

At approximately 2:00 P.M., as Joyce was concluding his shift of work, Joyce procured his timecard and he noted that he had been docked for a half hour. He questioned the clerk concerning Joyce's indicated arrival time at work. The clerk responded by informing Joyce that he had made the 6:30 A.M. entry at the direction of Foreman Mayfield, whereupon Joyce left the office, sought out Mayfield and found Mayfield outside an office engaged in a discussion with Supervisors Boer and Kramer. There is little, if any, dispute between the parties concerning the events which transpired thereafter.

Joyce approached Foreman Mayfield and asked Mayfield why he (Joyce) had been docked 1/2 hour.

Mayfield responded by stating that he had been informed by the night turn foreman (Meinert) that Joyce had not reported to Meinert at any time preceding 6:30 A.M. Foreman Mayfield informed Joyce that since he was 1/2 hour late and since Joyce had failed to follow the procedures for reporting late arrivals, he had been docked 1/2 hour. Joyce became angry and called Mayfield a liar. Mayfield insisted that Joyce had

been late, had failed to start on the cleaning of the office which was the first task to be performed by Joyce at 6:00 A.M. and, since Joyce had failed to follow procedures by reporting to a foreman and handing a foreman his timecard when he was late, Mayfield had no alternative other than to conclude that Joyce had failed to report for work prior to 6:30 A.M. Joyce continued to call Mayfield a liar and as Joyce turned and walked away, he turned back and stated to Mayfield "I'm going to get you." Mayfield called out to Joyce and asked "Is that a threat?" Joyce turned again, took several steps back toward Mayfield and stated "No that's not a threat, but I'm going to get you." Mayfield then informed Joyce that he was to wait in the area since Mayfield intended to call plant protection and have Joyce escorted from the plant. Joyce did not wait. He turned and walked out and proceeded to leave the plant. Mayfield attempted to call plant protection. After two unsuccessful attempts to call plant protection, Mayfield left the area, proceeded to report to his immediate supervisor, after which Mayfield reported the entire incident to the General Foreman. The events which transpired at approximately 2:00 P.M. were confirmed in all essential details by Foremen Boer and Kramer who were talking with Foreman Mayfield when Joyce approached and engaged in the conversation with Mayfield. Joyce conceded in his testimony that he had called Mayfield a liar on several occasions. He conceded that he had said to Mayfield "I'll get you." He conceded that after Mayfield had asked him if that was a threat, Joyce had responded by stating "No, but I'm going to get you." It was Joyce's contention that he had intended by the use of the words "I'm going to get you" to convey to Mayfield his intention to either complain to the Union or to complain to other members of supervision that he was being harassed by Mayfield.

At a hearing held between the parties when Joyce was asked to explain the purpose of his use of the words "I'm going to get you," he indicated that he intended thereby to end the conversation. He denied that he was angry, and he conceded that he heard Mayfield state that Mayfield intended to call plant protection. At a hearing held during the course of the grievance procedure Joyce had stated "I play poker and can bluff. A good poker player doesn't show his hand until he is called." He testified that he had intended thereby to convey the impression that at the time he had used the words which Mayfield construed to be a threat, he (Joyce) had no intention of telling Mayfield what he meant by those words until Mayfield specifically asked him the meaning of those words. Joyce conceded that he did not wait for plant protection before leaving the plant since he was of the opinion that if Mayfield believed he had been threatened by Joyce, Mayfield would have called plant protection and plant protection would have stopped Joyce at the gate. The Union contended that Mayfield had erred in docking Joyce 1/2 hour under circumstances where Joyce conceded that he had been ten minutes late and had readily admitted his tardiness when he had a member of plant protection punch his timecard upon his arrival at the plant at 6:00 A.M. The Union contended that, although Joyce was only ten minutes late, Foreman Mayfield had angered Joyce by docking him 1/2 hour when Joyce had, in fact, commenced to work at approximately 6:10 A.M. by performing some clean-up functions in a locker room instead of cleaning up the office. The Union contended that the words used by Joyce did not constitute a threat directed toward Mayfield and, under any circumstances, the words used by Joyce could not be construed to be so serious and so threatening in nature as to constitute proper cause for Joyce's termination from employment.

Joyce had been suspended on January 23, 1979, as a result of the incident of January 19, 1979. A hearing was held on January 29, 1979, and on February 6, 1979, the suspension was converted to a discharge. A grievance was filed on February 9, 1979, contending that the discharge action was unjust and unwarranted in light of the circumstances. The grievance contended that the Company had violated Article 3, Section 1, and Article 8, Section 1, of the Collective Bargaining Agreement. 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

The basic facts are not in dispute. All of the essential details have been set forth in the background portion of this opinion and award.

It becomes evident that the use of the words "I'm going to get you" by the grievant (Joyce) was clearly intended to constitute a threat toward a member of supervision. The fact that he did not amplify those words or explain his intentions, made it evident that Joyce wanted the supervisor to be concerned and to worry with respect to what Joyce might do at some future time. Although Joyce contended that he was not angry when he used the words "I'm going to get you," the facts indicate that moments before those words were used Joyce was engaged in an angry confrontation with his supervisor and he had repeatedly called his supervisor a liar.

There is evidence in this record that during his period of less than two years of employment with the Company Joyce had been reprimanded on three occasions for tardiness. He had been suspended on two occasions for acts of insubordination. He had been suspended on one occasion for poor work performance. In November, 1978, and again in January, 1979, Joyce had been suspended for sleeping in the plant. The suspension concerning the second incident of sleeping in the plant was made the subject of a grievance that was pending in the grievance procedure at the time of Joyce's termination from employment. Joyce had also been made the subject of two record reviews.

This case is clearly distinguishable from the fact situation that became the subject matter of Award No. 653 when an employee used the words "I'll kill you," directed toward a member of supervision. In that case this arbitrator found that the words were used "as a figure of speech" and under circumstances where it should have been evident to the supervisor that the grievant in that case had no intention of striking the supervisor or doing anything that would place his life in jeopardy.

In the instant case, the only reasonable conclusion that can be drawn from all of the competent evidence in the record is that Joyce made a calculated effort to use the words "I'll get you" in a manner and under circumstances that were clearly designed to impress upon his foreman that the words were intended as a threat. Joyce admittedly intended to leave the foreman in doubt with respect to what Joyce might or might not do in carrying out the threat that was implicit in the use of the words "I'll get you."

The arbitrator must find that the Company had cause for terminating Joyce from employment, and the grievance will be denied.

AWARD

Grievance No. 20-N-29

Award No. 671

The Company had cause within the meaning of Article 3, Section 1, and Article 8, Section 1, of the Collective Bargaining Agreement, for the discharge of Thomas James Joyce from employment. The grievance is hereby denied.

/s/ Burt L. Luskin

ARBITRATOR

September 28, 1979