

Award No. 673
In the Matter of the Arbitration Between
INLAND STEEL COMPANY
AND UNUNITED STEELWORKERS OF AMERICA
AND ITS LOCAL UNION 1010
Grievance No. 9-N-72
Appeal No. 1276
Arbitrator: Burt L. Luskin

October 22, 1979

INTRODUCTION

An arbitration hearing between the parties was held in Harvey, Illinois, on September 27, 1979.

APPEARANCES

For the Company:

Mr. T. L. Kinach, Arbitration Coordinator

Mr. E. J. Skuse, Assistant Superintendent, 10" and 14" Mills

Mr. J. L. Federoff, Assistant Superintendent, Labor Relations

Mr. R. L. LaBarge, Administrative Supervisor, 10" and 14" Mills

Mr. A. Edwards, Turn Foreman, 10" Mill
Mr. R. K. Scholes, Representative, Labor Relations

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

Mr. C. Turner, Assistant Roller, 10" Mill

Mr. B. Davis, Finishing End Foreman, 10" Mill

For the Union:

Mr. Theodore J. Rogus, International Representative

Mr. Joseph Gyurko, Chairman, Grievance Committee

Mr. Don Lutes, Secretary, Grievance Committee

Mr. J. C. Porter, Acting Vice Chairman, Grievance Committee

Mr. Joe E. Gutierrez, Griever

Mr. James F. Bonewits, Griever

Mr. William L. Hipp, Grievant

BACKGROUND

William L. Hipp was employed by the Company on March 10, 1976, and continued in employment thereafter in the 10" Mill Department.

On February 7, 1979, Hipp (whose regular classification was that of straightener helper) completed his scheduled shift of work at 8:00 A.M. Hipp received his timecard and noted that it had been punched indicating that he would be paid at the straightener helper rate of pay. Hipp approached his foreman, registered a complaint, and was told to see Foreman Edwards who had punched the timecard and who had indicated thereby that Hipp had worked as a straightener helper. Although Hipp had, in fact worked as a straightener helper, he contended that he had been "scheduled" as a straightener operator for that shift of work and that he was entitled to the straightener operator rate of pay instead of the straightener helper rate of pay. Hipp approached Foreman Edwards, informed the foreman that he had been scheduled as a straightener operator, and he asked that the timecard be corrected to indicate his entitlement to the straightener operator rate of pay. Foreman Edwards responded that "to his knowledge" Hipp had been properly paid and that Hipp had worked as a straightener helper. Hipp insisted that Edwards examine the schedule. A discussion took place that became heated. Foreman Edwards thereafter reported to the General Foreman and the superintendent that Hipp had directed vile and profane language toward Edwards. Foreman Edwards complained that Hipp at the same time had directed several obscene gestures toward him and that he (Hipp) threatened Foreman Edwards when he stated that he (Hipp) "would kick ass" or used words indicating that he would "knock the foreman on his ass." Foreman Edwards reported that Hipp had entered the General Foreman's office, had continued to act in an irrational manner and had rummaged among papers on the General Foreman's desk and had opened several drawers in the General Foreman's desk.

Plant Protection was called and Hipp was escorted from the plant. Prior to his leaving the plant, Hipp's timecard was changed to reflect the fact that he would be paid for the complete shift of work at the straightener operator rate of pay instead of at the straightener helper rate of pay.

Hipp was thereafter suspended from employment. A hearing was held on February 20, 1979, and on February 28, 1979, Hipp was terminated from employment as a result of the events which had occurred on

February 7, 1979. In determining the degree of penalty, the Company also took into consideration Hipp's record of discipline imposed on prior occasions for different forms of offenses.

A grievance was filed protesting Hipp's termination from employment. The grievance was thereafter processed through the remaining steps of the grievance procedure and the issue arising therefrom became the subject matter of this arbitration proceeding.

DISCUSSION

Hipp was charged with a violation of Rule No. 127-p of the General Rules for Safety and Personal Conduct. That rule is hereinafter set forth as follows:

"The following offenses are among those which may be cause for discipline, up to and including suspension preliminary to discharge:

"p. Use of profane, abusive, or threatening language towards subordinates or other employees or officials of the Company, or any non-Inland personnel."

Foreman Edwards testified that after he had punched the cards for a number of employees whose shifts were ending, Hipp approached him at a time when Foreman Edwards was engaged in conversation with an assistant roller named Turner. Edwards testified that Hipp interrupted the conversation and stated that Edwards had punched his card "wrong." Edwards insisted that it had been punched correctly. Edwards testified that Hipp kicked at the floor, waved his arms, jumped in the air and turned around, causing his hard hat to fall from his head to the floor. He testified that Hipp repeated those movements, after which he made an obscene gesture with his hand and called Edwards a m- f-. Edwards testified that when Hipp insisted that his timecard had been erroneously punched, Foreman Edwards suggested that the schedule could be checked in the office and the matter could be straightened out. Edwards testified that Hipp walked off in the direction of the office and that Edwards followed him and, while walking to the office, Hipp continued to make obscene gestures. Edwards charged Hipp with bending over, pointing to his posterior and making obscene references, including calling Edwards a "dumb ass." Edwards testified that while walking to the office Hipp turned around and threatened Edwards, stating that he would "kick ass" or that he (Hipp) would "knock the foreman on his ass." Hipp then stated that there were no witnesses to those events. Edwards testified that Hipp entered the superintendent's office, continued his tirade, rummaged over the top of a desk, opened drawers and generally conducted himself in so irrational a manner as to cause Edwards to be concerned for his personal safety. Edwards then called Plant Protection and asked that Hipp be escorted from the plant.

The Company offered the testimony of an assistant roller (Bargaining Unit employee) named Turner. That witness testified that he had been engaged in conversation with Foreman Edwards when Hipp approached and began to speak to Foreman Edwards stating that his timecard had been punched improperly. Foreman Edwards insisted that the card had been properly punched and, when Hipp continued to argue, Foreman Edwards stated that if he (Edwards) was wrong, the card could be corrected. Turner testified that Hipp directed several obscene gestures toward Foreman Edwards and called Foreman Edwards a m- f-. He testified that Hipp jumped in the air causing his hard hat to fall off and that he repeated that movement. He testified that Hipp was angry and excited, and that he spoke in a loud voice. He testified that Edwards did not raise his voice nor did he use any swear words.

The Union offered the testimony of the grievant. Hipp conceded that he had approached Foreman Edwards after he had talked to his shift foreman and had been told to see Edwards about correcting his timecard. He testified that he had encountered a similar problem with his regular foreman on the preceding day and, after having called the error to the foreman's attention, that foreman had corrected the card. Hipp testified that he did become angry only after Edwards insisted that Hipp's card had been correctly punched and after Edwards refused to look at a copy of the schedule which Edwards had in his possession. Hipp testified that if Edwards had looked at his schedule, he would have immediately noticed that Hipp had been scheduled to work as a straightener operator on that particular turn. Hipp testified that as he turned away from Edwards his hard hat fell from his head. He picked it up and proceeded to walk to the office. Hipp testified that he intended to check a copy of the schedule which was posted in the office in order to support his contention that he was being incorrectly paid for that turn of work. Hipp testified that Edwards followed him in the direction of the office and, when they momentarily stopped, Edwards stated that he was not afraid of Hipp and that he (Edwards) "didn't have to put up with Hipp."

Hipp testified that Edwards accused him of threatening Edwards. Hipp denied that he had directed profane remarks toward Edwards, and he denied making any obscene gestures. Hipp testified that as they reached the office Edwards yelled in the direction of the superintendent who was engaged in a meeting, causing the meeting to break up at that point. Hipp testified that he entered the foreman's office in order to check the

schedule that should have been posted on the wall. He denied rummaging through papers on top of the desk and he denied opening drawers. He testified that Edwards entered the office and called Plant Protection, after which General Foreman LaBarge entered the office. Hipp testified that Edwards then accused him (Hipp) of threatening and cursing Edwards. Hipp testified that when a member of the Plant Protection Department entered the room, LaBarge checked the schedule and directed Edwards to correct the card after the General Foreman had noted that Hipp had been scheduled to work that day as a straightener operator and not as a straightener helper. Hipp denied that he had at any time threatened Edwards with bodily harm. He denied making any threatening gestures with his fist and he denied directing profane remarks toward Edwards. Hipp later testified that he could not recall using the words m- f- and he had no recollection of having made obscene gestures directed toward Edwards. He testified that Turner was in the immediate area when he first approached Foreman Edwards, and he denied using the words "kick ass" or "knock him on his ass." Hipp testified that he had not encountered any problems with Edwards in the past nor had he encountered any problems with his fellow employees.

An employee named Sowder testified that he was in a pulpit and from 20 to 25 feet away he was able to observe Hipp engaging in a conversation with Edwards. He testified that he could not hear the words they exchanged and he did not see any gestures. He testified that he saw Hipp walk away and that Hipp was followed by Edwards. He testified that about a year ago he (Sowder) encountered a timecard problem with Foreman Edwards and that, after an argument, Edwards had corrected the card. He testified that Edwards and almost everyone else in the department used profanity.

The Union offered the testimony of an employee named Smith who testified that he was approximately 15 to 20 feet away when he saw Hipp and Edwards engaged in a conversation. He testified that he could not hear what was said and he testified that he saw no threatening gestures. He testified that he saw Hipp with a timecard in his hand and he saw Hipp walk away. He testified that Edwards followed Hipp and he then lost sight of both Edwards and Hipp.

From an analysis of all of the evidence in the record, it becomes evident that Hipp became angry when he noted that his timecard had been punched in a manner which credited him with working the shift as a straightener helper instead of as a straightener operator. He became angry and frustrated when he called that matter to Edwards' attention and Edwards initially refused to change the timecard. A similar problem had arisen on the prior day, and the timecard was changed by a different foreman.

The evidence would conclusively support Foreman Edwards' version of what had occurred when Hipp first approached Edwards. The foreman's version of that portion of the incident was corroborated in all of its essential details by a Bargaining Unit employee who has been employed with the Company for approximately twenty-four years. The arbitrator must find that Hipp called Edwards a m- f- and Hipp did make an obscene gesture in Edwards direction that could only be characterized as insulting, degrading and abusive. He raised his voice and shouted and he generally concluded himself in so irrational a manner as to cause the foreman to become concerned for his personal safety.

Hipp proceeded to the office and he was followed by Edwards. An examination of that posted schedule would have determined whether Hipp should or should not have been paid at the straightener operator rate of pay for that particular shift of work. The arbitrator must find that the far more credible version of what occurred between Hipp and Edwards while walking to the office was set forth in the testimony of Foreman Edwards. Edwards had absolutely no reason or motive for concocting a fictionalized version of that portion of the incident. Hipp was admittedly angry, excited and upset with what he considered to be Edwards' obstinate refusal to look at the schedule. The arbitrator is completely convinced from all of the evidence in this record that Hipp did, in fact, call Edwards "dumb ass" and he did direct statements to Edwards which constituted threats of physical violence. He made further obscene gestures directed toward Edwards and his general conduct could only be construed to constitute the use of profane, abusive and threatening language directed toward a member of supervision in violation of Rule No. 127-p of the General Rules for Safety and Personal Conduct.

Profanity becomes a serious matter when it is uttered in anger and is directed in a personal vein toward a member of supervision. Directing obscene gestures in anger toward a foreman cannot be tolerated. No employee has a right to direct threatening language toward a member of supervision. When the entire incident is evaluated it becomes evident that the matter assumed proportions so serious in nature as to justify the imposition of severe disciplinary measures including that of termination from employment. In determining the degree of penalty that should be imposed against Hipp, the Company called attention to Hipp's disciplinary record while in the employ of the Company for a period of a little more than three years. In the period between August, 1976, and August, 1978, Hipp had been suspended preliminary to discharge

for falsification of records, and he had been restored to employment eight days thereafter without pay for time lost. He had been reprimanded on two occasions for absenteeism and he had been suspended on three occasions for periods of time ranging from one turn to three turns for absenteeism. He was suspended for a portion of a turn for a safety violation and he had been the subject of a record review coupled with a final warning. That kind of record would not justify a mitigation of the penalty of termination for the offenses committed by Hipp on February 7, 1979. The arbitrator must, therefore, conclude that the Company had just cause for terminating Hipp from employment, and the Company, therefore, could not be deemed to have violated Article 3, Section 1, or Article 8, Section 1, of the Collective Bargaining Agreement. The grievance filed by Hipp made a reference to an alleged violation by the Company of Article 4, Section 2, of the Contract. There is nothing in this record that would in any way support a contention that the Company interfered with the grievant's right to become a member of the Union. There is nothing in this record that would in any way indicate that Hipp had been made the subject of discrimination, interference, restraint or coercion by the Company or any of its representatives because of Hipp's membership in the Union. The contention advanced in the grievance that the Company had violated Article 4, Section 2, of the Collective Bargaining Agreement, will, therefore, be denied.

AWARD

Grievance No. 9-N-72

Award No. 673

The Company had just cause for terminating William L. Hipp from employment. The grievance is hereby denied.

/s/ Burt L. Luskin

ARBITRATOR

October 22, 1979