

Award No. 716  
In the Matter of an Arbitration between  
INLAND STEEL COMPANY  
and  
UNITED STEELWORKERS OF AMERICA,  
Local Union 1010  
Grievance No. 22-P-20  
Appeal No. 1322  
Arbitrator: Ralph T. Seward  
November 30, 1982

I. Verduzco, the grievant, a Chipper in the Company's Mold Foundry Department, was discharged on May 21, 1981, for (1) using threatening language toward another employee in violation of Personal Conduct Rule No. 127-p, (2) instituting a work slowdown in violation of Article 4, Section 5, of the parties' Agreement, and (3) "your previous record." I am called upon to decide whether his discharge was for cause. Verduzco was one of a group of Chippers who are responsible for cleaning molds for the steel producing departments. It appears that late in April, 1981, certain of those Chippers became dissatisfied because, in their opinion, they were not receiving sufficient down time for crane delays. (Though an allowance for crane delays was built into the time standards of their incentive plan, special down time seems sometimes to have been authorized by Supervision in cases of unusually long delay.) The dissatisfaction seems to have been sparked by Supervision's failure, on April 27, 1981, to grant down time to offset a 90-minute period when the No. 6 crane was inoperative.

The Company contends that the grievant Verduzco took the lead in complaining about this April 27th incident and that in discussions with his General Foreman he laid the blame for the failure to grant down time primarily on Turn Foreman Fred Loomis. There is evidence that at a meeting called by Management, on Friday, April 30, 1981, at which a representative of the Industrial Engineering Department explained to the Chippers the operation of the allowances in their incentive plan, Verduzco acted as spokesman for the Chippers in raising questions and complaints and several times indicated his dislike of Foreman Loomis and his belief that Foreman Loomis's presence on a turn tended to discourage the Chippers' production. The Company charges that during the week immediately following this meeting (i.e., the week beginning Monday, May 4, 1981) there was a substantial slowdown in the production of the chipping crew and that Verduzco took part in this slowdown. It further charges that on several occasions during the week, Verduzco spoke to R. Walthour, a Chipper who had just returned to work after a period of illness, and urged him not to get too many molds out because "We don't want Fred Loomis down here anymore" and that on Friday, May 8, 1981, Verduzco met Walthour in the parking lot while they were coming to work and said to him, "If you don't slow down, something is going to happen to you", using a threatening tone of voice and shaking his finger at Walthour while he spoke. The Company contends, in other words, that Verduzco not only participated in a slowdown of production, organized in protest against actions of Foreman Loomis, but also tried to persuade Employee Walthour to join in the slowdown and, when Walthour failed to do so, endeavored to force him to cooperate by threats and intimidation. It submits that by such conduct, Verduzco gave clear cause for his discharge and asks that his grievance be denied. The Union denies that Verduzco either participated in a slowdown of production or urged Walthour to do so. It concedes that Verduzco's production during the week in question sometimes fell substantially below his usual level of output but asserts that the number of molds produced by Chippers can vary from day to day because of production difficulties and because of variations in mold sizes and quality and that the Company has failed to establish that the drop in Verduzco's production was the result of any deliberate effort by Verduzco to restrict his production. Again, it concedes that during the period from May 4 to May 8, 1981 - the days immediately following Walthour's return from his illness - Verduzco several times urged him to slow down, but says he did so because he knew that Walthour had high blood pressure and feared that if he worked too hard, during his first days back on the job, he might harm himself. In the Union's opinion, in other words, the Company's charges against the grievant are based on a misinterpretation of the evidence and should not be upheld.

After reviewing and weighing all of the evidence presented, I find that the Company has established the truth of its charges against Verduzco and that his grievance must be denied. Beginning with the matter of the slowdown, there is no question but that the production of the chipping group of which Verduzco and Walthour were members dropped substantially during the week of May 4, 1981. According to the figures presented to the Union at the Step 4 hearing on this grievance and placed in evidence at the hearing, the

average weekly performance of the chippers at this period was 5.3 molds cleaned per chipper per day. During the week of May 4, 1981, production dropped to an average of 3.84 molds per Chipper per day. Evidence presented concerning the condition of the molds that week - i.e., the percentage of "good" molds (87%) as opposed to the percentage presenting difficulties such as heavy inside, outside, or corner penetration, or "soft ram" conditions - offers no grounds for attributing the drop to poor quality molds, and there has been no suggestion that any operating difficulties existed that could have caused it. It is clear, further, that Verduzco's own production fell during the week far below his ordinary levels. In March and April, his average daily production (averaged each week) ranged from a low of 5 molds per day to a high of 9.1 molds. In the week of May 4, however, his production dropped to an average of 3.4 molds per day. He was considered by Supervision to be an exceptionally good worker and during March and April often produced 7, 8 or 9 molds per day, and sometimes as many as 10 or 11 molds per day. During the week of May 4, however, he produced only 4 molds on the first three days, and only 2 and 3, respectively, on the last two. And though on May 4, he had two "bad" molds (a "soft ram" and a "high corner penetration"), the molds he worked on during the remainder of the week were uniformly "good". At the arbitration hearing, though he denied that he had been restricting output, he offered no explanation for this low production. I am convinced, despite his denials, that he was, in fact, engaged in a deliberate slowdown and that the Company's charge to that effect must be upheld.

With regard to the charge that Verduzco used threatening language toward Walthour, the Company's evidence consists of the testimony of Foreman Loomis and General Foreman Polihronis concerning statements which they say were made to them by Walthour and another employee named Lyons. Foreman Loomis says that on Friday, May 8, 1981, Walthour came to him and said that he had just been threatened by Verduzco in an effort to get him to join in a slowdown of production. Foreman Loomis notified General Foreman Polihronis of Walthour's statements and both supervisors questioned Walthour and also Employee Lyons, who had been with Walthour at the time certain of Verduzco's threats had allegedly been made. Later, Walthour and Lyons signed statements which, according to Foreman Loomis and General Foreman Polihronis, incorporate the substance of what Walthour and Loomis had reported to them concerning Verduzco's threats. Walthour's statement reads as follows.

On Monday, May 4, 1981, I returned to work from an illness. Ignacio Verduzco approached me as soon as I started work and told me not to get too many molds out. I asked why not. Verduzco said "Because we don't want Fred Loomis down here anymore."

He told me the week before I came back they had a meeting upstairs about the crane being down. He said the crane was down one or two hours and Fred didn't give them any down time. He said they went to the Union hall but didn't get much help.

Every day last week he told me "slow down, slow down. Get one or two a day. We don't want Fred Loomis down here."

Friday morning, Verduzco saw me in the parking lot and said "If you don't slow down, something is going to happen to you." He used a threatening tone of voice. Marion Lyons was walking in with me when Verduzco came up and said this. When I got to work, I was inside my mold, working, Verduzco, Jose Romo and Ortiz came and stood outside my mold for 5 or 6 minutes talking in Spanish and watching me. This was about 7:30 A.M. I couldn't understand what they were saying.

Lyons statement reads as follows.

On Friday, May 8, Roguest Walthour and I were walking from our cars to the clockhouse. Ignacio Verduzco approached us and started talking to Walthour. "You been getting out too many molds, you better watch it." Walthour said, "It's my family and I got to feed them." Verduzco shook his finger at Walthour and he said this and used a threatening tone.

I continued to walk a few steps ahead and they were still talking, but I couldn't really hear anymore.

On the basis of all the applicable evidence, I have concluded that these written statements should be accepted as representing substantially what Walthour and Lyons said to their Supervisors concerning the alleged threats by Verduzco to Walthour. I am persuaded, further, that Verduzco did use substantially the language attributed to him in these statements. It is true, of course, that as neither Walthour nor Lyons were called as witnesses, all evidence as to what they said about Verduzco's language and attitude is hearsay and, though technically admissible, would ordinarily carry little weight if contradicted by direct testimony. In the present case, however, Verduzco admits having a conversation with Walthour in the parking lot on the morning of May 8 and further admits that, in the presence of Lyons, he said to Walthour, "Hey, don't work too much. Maybe you go down." His defense, in other words, is not that he did not use language to Walthour very similar to that attributed to him, but that his words were misinterpreted and that instead of

threatening Walthour, he was urging him to remember his high blood pressure and not work so hard as to endanger his health. Given the circumstances existing at the time of this conversation - the existence of a slowdown on the part of many of the chippers, the active participation of Verduzco in this slowdown and the failure of Walthour (according to the production figures) to cooperate with the slowdown by reducing his own production - it is hard to consider even the words "Hey, don't work too much. Maybe you go down." as anything but a demand that Walthour slow down his production accompanied by a threat. Certainly the words were taken that way by Walthour and Lyons, for both men, when talking to their Supervisors, clearly expressed a belief that Verduzco was threatening Walthour with harm if he did not slow down. In the face of all this evidence, then, I simply find it impossible to believe Verduzco's present assertions as to his harmless language and intentions. I am persuaded, rather, that he did indeed threaten Walthour in an effort to get him to cooperate in the slowdown and that the Company's charge to that effect must be upheld.

Participating in a slowdown in violation of Article 4, Section 5, of the Agreement and threatening another employee in violation of Personal Conduct Rule No. 127-p, are grave offenses. Each, separately, might in many circumstances justify discharge. Combined, as they are here, they unquestionably constitute cause for Verduzco's discharge. The Company's action is upheld and the grievance is denied.

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The grievance is denied.

/s/ Ralph T. Seward

Ralph T. Seward, Arbitrator

Washington, D.C.

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