

Award No. 725
In the Matter of the Arbitration Between
INLAND STEEL COMPANY
AND
UNITED STEELWORKERS OF AMERICA
AND ITS LOCAL UNION 1010

Grievance No. 7-P-29

Appeal No. 1329

Discharge of Bruce Sebastyen

Arbitrator: Bert L. Luskin

October 26, 1982

INTRODUCTION

An arbitration hearing between the parties was held in Harvey, Illinois, on September 13, 1982. Pre-hearing briefs were filed on behalf of the respective parties.

APPEARANCES

For the Company:

Mr. R. T. Larson, Arbitration Coordinator, Labor Relations
Mr. R. G. Clark, Assistant Superintendent, Plant No. 2 Mills
Mr. C. Korkoian, General Foreman, Plant No. 2 Mills
Mr. W. Johnson, Foreman, Plant No. 2 Mills
Mr. J. J. Spear, Coordinator, Labor Relations
Mr. R. V. Cayia, Senior Representative, Labor Relations

For the Union:

Mr. Thomas L. Barrett, Staff Representative
Mr. Joseph Gyurko, Chairman, Grievance Committee
Mr. William Gales, Vice Chairman, Grievance Committee
Mr. Don Lutes, Secretary, Grievance Committee
Mr. Alexander Jacque, Griever
Mr. Mark Thomsen, Griever
Mr. Bruce Sebastyen, Grievant

BACKGROUND

Bruce Sebastyen was employed at the Company on June 12, 1977. Sebastyen had worked in the No. 3 Blooming Mill and had been removed from that position as a result of a force reduction. His seniority entitled him to hold a position in the No. 2 Blooming Mill, to which he was transferred on February 22, 1982. Sebastyen's work schedule for the week beginning February 21, 1982, ended on Saturday, February 27, 1982. In accordance with the posted schedule, Sebastyen's next scheduled turn of work for the week commencing February 28, 1982, would have been Monday, March 1, 1982.

At approximately 9:50 P.M. on Sunday, February 28, 1982, a production turn foreman named Wayne Johnson received two telephone calls within a period of approximately ten minutes. The first caller identified himself as "Sebastyen, check No. 626." Johnson later reported to the General Foreman that the person who identified himself as Sebastyen had stated in the first telephone call that he was having trouble with his schedule and needed some help. When Johnson asked him what department he worked in, Sebastyen responded by identifying the department. Johnson then allegedly informed Sebastyen that he (Johnson) could not help him since he did not have those schedules. He directed Sebastyen to call one of two telephone numbers between 10:30 and 11:00 P.M. in order that Sebastyen would be able to get the necessary information. Johnson reported that Sebastyen called back a few minutes later and stated: "I am getting f-- around. I don't understand the f-- eights and slashes. I want somebody to tell me my f-- schedule." Sebastyen allegedly repeated several additional profane statements, and when he was again asked for his name and check number, he identified himself as "Sebastyen, #626." Johnson thereafter reported that Sebastyen then asked him (Johnson) for his name and check number. Johnson reported that he provided Sebastyen with that information, and Sebastyen again asked for information concerning his schedule.

When Sebastyen allegedly called back the second time (within minutes after the first call), Johnson answered the telephone and Sebastyen then informed Johnson that no one had answered the telephone at either of the two numbers that Johnson had given him. Johnson reported that Sebastyen had then stated "Look, mother f--, I gotta know my schedule." Johnson reported that Sebastyen then stated "You're a smart-

mouth and have a bad attitude and I have taped this whole phone call." Johnson reported that Sebastyen then asked Johnson whether he (Johnson) would be working the next day, and when Johnson responded to Sebastyen by stating that he would be working "4-12," Sebastyen allegedly then stated to Johnson "I will see you tomorrow; then we will see how smart you are, you mother f-- nigger." Johnson reported that he hung up the telephone at that point in the conversation and proceeded to report the entire incident to his General Foreman (Korkoian) whom he reached at the General Foreman's home.

On the following day when Sebastyen reported for work he proceeded to General Foreman Korkoian's office where he registered a complaint with Korkoian concerning a "black foreman" named Johnson who had verbally abused him (Sebastyen) on the telephone on the preceding day when Sebastyen had called in to ask for information concerning his schedule. Korkoian informed Sebastyen that a departmental investigation would be held on March 2, 1982, and thereafter sent Sebastyen home. Sebastyen was then escorted from the mill by a member of the Plant Protection Department.

Following the March 2, 1982, investigation hearing Sebastyen was suspended from employment for violating Rule 127-p of the General Rules for Safety and Personal Conduct. He was charged with the use of profane, abusive and threatening language directed toward a member of supervision. Sebastyen was also informed that his suspension was further based on his overall unsatisfactory work record. The suspension was thereafter converted to termination from employment on March 11, 1982, after a hearing was held pursuant to the procedures set forth in Article 8, Section 1, of the Collective Bargaining Agreement. The grievance, which was filed on March 16, 1982, protesting the termination from employment and requesting reinstatement and pay for all lost time, 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 Company charged Sebastyen with a violation of Rule 127-p of the General Rules for Safety and Personal Conduct. That rule is hereinafter set forth as follows:

"127. 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."

All of the competent evidence in the record establishes without any doubt that Sebastyen directed profane, abusive and racially scurrilous remarks toward a member of supervision without any provocation on the part of the supervisor. The fact that Sebastyen mistakenly assumed from Johnson's telephone voice that Johnson was a black man when, as a matter of fact, Johnson is a white man, would have nothing whatsoever to do with the fact that the remarks were racially vicious and profane. Sebastyen's statement to Johnson when he called Johnson a "smart-mouth" and referred to Johnson's "bad attitude," coupled with the statement that Sebastyen had "taped this whole phone call," were admittedly made in an effort to frighten Johnson and to cause him to be concerned.

The evidence is conclusive with respect to the statement attributed to Sebastyen wherein Sebastyen inquired of Johnson what hours Johnson would be working and, when Johnson responded he would be working "4 - 12," Sebastyen responded by stating "I will see you tomorrow; then we'll see how smart you are, you m- f- nigger." Those words can only be construed as threats of bodily harm and, standing alone, would constitute a violation of Rule 127-p and could have justified Sebastyen's termination from employment.

The Company, however, had for a period of time followed its normal, regular course of imposing constructive and progressive discipline against Sebastyen for a series of offenses committed by Sebastyen that started in February, 1979, a year and a half after his original date of employment with the Company. Sebastyen's discipline record is hereinafter set forth and is completely self-explanatory.

Date	Infraction	Action
2-22-79	Absenteeism	Reprimand
6-22-79	Sleeping in the plant	Discipline - balance of turn plus 1 turn
7-10-79	Failure to report off	Discipline 2 turns
7-07-80	Abusive language over telephone	Discipline - 3 turns
09-15-80		Record review and final warning with assistant superintendent
5-12-81	Failure to report off	Discipline - 1 turn

5-15-81		Record review and final warning with assistant superintendent
7-21-81	No safety equipment	Discipline - 3 turns
8-14-81	Out of work area	Discipline - balance of turn plus 3 turns
8-31-81		Record review and final warning with assistant superintendent"

What must be noted from the above cited record is that Sebastyen was given three separate record reviews and final warnings before the termination action was taken. He received more consideration than what would ordinarily be accorded to any employee whose service with the Company dates back only to 1977. This is not the first time that Sebastyen has used violent and profane language over the telephone when conversing with a Company employee. In July, 1980, Sebastyen had been suspended for three days after he had directed a profane remark toward a clerk in the insurance office when he telephoned and asked for certain information.

On the basis of the admitted record in this case, Sebastyen's violation of Rule 127-p of the Company's General Rules for Safety and Personal Conduct, together with Sebastyen's record of imposed discipline and his refusal to recognize three different final warnings from assistant superintendents, would constitute just and proper cause for Sebastyen's termination from employment.

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

AWARD NO. 725

Grievance No. 7-P-29

The Company had just and proper cause for the termination of Bruce Sebastyen from employment. The grievance is hereby denied.

/s/ Bert L. Luskin

ARBITRATOR

October 26, 1982