

Award No. 726  
Grievance No. 9-P-46  
Appeal No. 1330  
Discharge of William A. Rex  
In the Matter of the Arbitration Between  
INLAND STEEL COMPANY  
AND  
UNITED STEELWORKERS OF AMERICA  
AND ITS LOCAL UNION 1010  
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.

For the Company:

Mr. R. T. Larson, Arbitration Coordinator, Labor Relations  
Mr. J. Balotti, Assistant Superintendent, 10" Mill  
Mr. C. Skaggs, Mechanical Foreman, 10" Mill  
Mr. D. Mehay, Mechanical Foreman, 10" Mill  
Mr. J. J. Spear, Coordinator, Labor Relations  
Ms. N. McDowell, 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. James Bonewits, Griever  
Mr. John Deardorff, Insurance Representative  
Mr. William A. Rex, Grievant

#### BACKGROUND

William A. Rex was employed by the Company on January 8, 1969. He later entered the mechanics classification and progressed through the sequence until he attained the classification of mechanic standard. On January 20, 1982, Rex was working at the 10" mill on the 12-8 turn. He had been assigned to perform a mechanical function on a mill drive. He started the work and locked out the mill by placing his safety locks in the appropriate position in accordance with the prescribed rules for locking out equipment on which he would be performing mechanical functions. Rex was unable to complete the assignment, and he was thereafter sent to perform some work on a different piece of equipment. He worked on the second assignment until the conclusion of the shift of work, after which he left the plant. He failed to return to the area where he had placed his safety locks and had thereby locked out the equipment.

When the repairs to the mill drive were later completed and the mill was ready for start-up, all safety locks were removed by those employees who had been working on the equipment. The safety locks placed on the equipment by Rex, however, had not been removed by Rex when he left the plant at the conclusion of the shift. An attempt to reach Rex was unsuccessful, and the Company thereafter was required to cut the locks left by Rex in order that the mill could be started.

The Company contended that Rex' failure to remove his safety locks before leaving the plant, had resulted in a twenty-minute delay in the start-up of operations. The Company contended that as a result of Rex' negligent act, the delay resulted in a production loss of between twenty and forty tons, as well as causing approximately fifty employees to be idled for a twenty-minute period of time.

The Company thereafter reviewed Rex' work record and noted that Rex had been disciplined for insubordination, fighting and theft. He had been discharged and reinstated on a last-chance basis. He thereafter underwent a record review and received a "final warning" from the Assistant Superintendent. He was thereafter reprimanded for abusive conduct directed toward a supervisor. He had been suspended for one turn for insubordination and abusive behavior. He later received a record review and a "final warning" from an Assistant Superintendant. He thereafter engaged in a "near-physical altercation" with a fellow employee resulting in Rex' suspension from employment for two turns.

The Company concluded that, although the act committed by Rex on January 20, 1982, would not (standing alone) justify termination from employment, the cumulative effect of his prior discipline record would have justified the imposition of the penalty of termination. The Company then suspended and later terminated Rex from employment. Rex filed a grievance protesting his termination from employment. The issue arising therefrom became the subject matter of this arbitration proceeding.

#### DISCUSSION

The basic facts have been set forth in the background portion of this opinion and award. Rex clearly and without question violated the prescribed rules for handling locked out equipment. His failure to remove his safety locks before leaving the plant at the end of the shift, created operational problems and resulted in substantial monetary losses to the Company. There can be no question but that some form of penalty was justified for Rex' neglect and oversight.

There is evidence in the record that other employees have failed to follow prescribed lock out procedures and have, under similar circumstances, failed to remove their locks, causing some forms of operational interruptions. There is nothing in the record, however, that would indicate that any such employee has been terminated from employment, and there is nothing in the record that would indicate that a failure to remove a safety lock at the appropriate time and place would call for the imposition of the penalty of termination from employment.

The Company did not contend that just cause existed for Rex' termination from employment because of his failure to remove the safety locks that he had placed on the mill. The Company contended that Rex' prior record of discipline, dating back to June, 1977, when viewed with the culminating incident of January 20, 1982, justified the imposition of the penalty of termination from employment. Rex' disciplinary record is hereinafter set forth as follows:

"Date	Infraction	Action
8/29/80	Fighting & theft	Five day suspension preliminary to discharge
9/15/80		Discharged
11/10/80		Reinstated - final chance basis
11/20/80		Record review and final warning with assistant superintendent
7/09/81	Abusive to supervisor	Reprimand
7/10/81	Insubordination and abusive behavior	Discipline - 1 turn
9/14/81		Record review and final warning with assistant superintendent
9/15/81	Near physical altercation with co-worker	Discipline- 2 turns"

It would appear that following the incident of August 29, 1980, and Rex' discharge in September, 1980, he has been involved in incidents where discipline was imposed. Two of the incidents resulted in record reviews and final warnings. It would appear, however, that Rex' total record would not justify the imposition of the penalty of termination from employment even if consideration were given to the seriousness of the offense committed by Rex when he failed to remove his safety locks from the locked out mill.

Rex has been employed with the Company since January, 1969. He is not a short-service employee who should be terminated from employment on the basis of a continuing poor disciplinary record. Rex' negligent conduct, however, on January 20, 1982, must be viewed with his prior work record which indicates that he has been warned on two separate occasions (final warnings) after record reviews that he must improve his behavior or subject himself to termination.

In the opinion of the arbitrator, Rex should be provided with one more opportunity to demonstrate that he can work in a manner expected of any other employee in his classification and that he can conduct himself in accordance with the rules for conduct laid down for all other employees. The incident in question occurred on January 20, 1982. Just cause would exist for the imposition of a period of disciplinary suspension from employment of six months from the date of the incident of January 20, 1982. Rex should be compensated for any moneys he may have been caused to lose for any period of time commencing six months after January 20, 1982.

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

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Grievance No. 9-P-46

1. Just cause did not exist for the termination of William A. Rex from employment with the Company.
2. Just cause existed for the imposition of a period of suspension from employment for a period of six months after January 20, 1982.
3. William A. Rex should be compensated for any moneys that he was caused to lose on and after six months following the date of January 20, 1982, in accordance with the contractual formula. The period between January 20, 1982, and six months thereafter shall be considered to constitute a disciplinary period of suspension from employment.

/s/ Bert L. Luskin

ARBITRATOR