Award No. 773
OPINION AND AWARD
In the Matter of Arbitration Between
INLAND STEEL COMPANY
and
UNITED STEELWORKERS OF AMERICA
LOCAL UNION 1010
Grievance No. 25-S-6
Appeal No. 1384
Arbitrator: Herbert Fishgold
July 22, 1987
Appearances:
For the Company
R.V. Cayia, Arbitration Coordinator, Union Relations
G. Jerome, Section Manager, Slab Yards and Docks, 80" Hot Strip Mill
R. Vela, Section Manager, Advocacy, Arbitration and Administration, Union Relations
D. Wiersbe, Manager, 80" Hot Strip Mill
M. Roglich, Senior Representative, Operations, Union Relations
V. Soto, Project Representative, Operation, Union Relations
For the Union
W. Trella, Staff Representative
G. Galvan, Chairman, Grievance Committee
D. Lutes, Secretary, Grievance Committee
J. Timmons, Grievance Committeeman
J. Sepke, Grievant
Statement of the Grievance: "The aggrieved, Judith Sepke, Payroll No. 2147, contends the action taken by the Company, when on August 11, 1986, her suspension culminated in discharge, is unjust and unwarranted in light of the circumstances involved."
Relief sought: "The aggrieved requests that she be reinstated and paid all monies lost."
Contract provisions cited: The Union cites the Company with alleged violations of Article 3, Section 1 and Article 8, Section 1 of the Collective Bargaining Agreement.
Statement of the Award: The grievance is denied.
CHRONOLOGY
Grievance No. 25-S-6
Grievance filed: August 18, 1986
Step 3 hearing: September 23, 1986
Step 3 minutes: October 27, 1986
Step 4 appeal: October 30, 1986
Step 4 hearing(s): November 14 and 19, 1986; December 12, 1986; January 21 and 29, 1987; May 15, 1987
Step 4 minutes: June 3, 1987
Appeal to Arbitration: June 4, 1987
Arbitration hearing: June 24, 1987
Award issued: July 22, 1987
By way of background, the grievant, Judith Sepke, was employed by the Company on October 2, 1969, and, at the time of her suspension and subsequent discharge on August 11, 1986, she was established in the Laborer Scarfing occupation at the 80" Hot Stop Mill. During the last five years of her employment, grievant received the following letters of reprimand and discipline:

Date	Infraction	Action
July 28, 1981	Absenteeism	Record review
June 16, 1982	Absenteeism	Suspended for 5 days preliminary to discharge
July 1, 1982	Absenteeism	Discharged
October 7, 1982	Final Chance Reinstatement	Record Review with Superintendent upon reinstatement
January 17, 1984	Absenteeism	Discipline (-1 Turn)
July 23, 1985	Absenteeism	Discipline (-1 Turn)

June 10, 1986	Absenteeism	Discipline (-2 Turns)
Juen 25, 1986	Absenteesim	Discipline (-3 Turns)
July 28, 1986	Absenteeism and failing to report for a final record review	Suspended for 5 days preliminary to discharge

As indicated by the above, grievant was previously suspended and discharged on July 1, 1982 for excessive absenteeism and overall work record. Following that action, on October 6, 1982, the Company agreed to reinstate the grievant on a "final chance" basis subject to certain conditions. One of those conditions was as follows:

"Failure to meet the conditions set forth above or any repetition of the conduct which led to this suspension-discharge action or violation of other Company rules or regulations will be cause for the grievant's immediate suspension preliminary to discharge."

Following the grievant's return to work on a "last chance" basis in October 1982, her attendance record showed that she was absent on 11 occasions in 1983 and went home early once. In 1984, grievant had nine individual days of absence. In 1985, grievant had 26 days of absence, which included 11 days of extended absence for illness. The grievant also went home early on two occasions in 1985. In 1986, for the seven months she was on the rolls, grievant had a total of 38 days of absence, which included 30 days of extended absence for illness.

More specifically, a review of the grievant's attendance record since late 1985 indicates the following:

Date	Reason
December 26, 1985 through January 1, 1986	Sick
February 7 through March 3	Extended illness
April 6	Sick
April 8 through April 23	Extended illness
May 4	Failure to report off
May 9	Personal
June 4	Sick
June 14	Personal Business
June 15	Failure to report off
July 6	Failure to report off
July 7 through July 14	Sick
July 27	Failure to report off

Based upon the above record of absenteeism and progressive discipline, grievant was scheduled to meet with her department manager on July 28, 1986, for the purpose of reviewing her record. On July 27, 1986, one day before the scheduled record review date, the grievant failed to report off for a scheduled midnight turn. The grievant did report to work for the midnight turn on July 28, 1985, but did not report to the manager's office at the end of that turn for the record review.

By letter dated July 28, 1986, grievant was suspended for five days preliminary to discharge, "because of your excessive absenteeism and your failure to attend a record review on the above date." Pursuant to Article 8, Section 1 of the Collective Bargaining Agreement, a suspension hearing was held on August 4, 1986. An investigation following the hearing failed to disclose any facts or circumstances which would warrant altering the department manager's decision. Consequently, the grievant was discharged on August 11, 1986.

Upon, the evidence presented, the undersigned finds that the discharge action was properly based on Ms. Sepke's poor attendance record following the "final chance" reinstatement of 1982, with particular emphasis on her attendance record in 1986, and culminating with her failure to report off on July 27, 1986, and her failure to present herself for the final record review on July 28, 1986.

The concept of the regular attendance by employees has long been recognized at Inland Steel. As Arbitrator David Cole noted in Inland Award No. 628:

"It should hardly be necessary to restate the Company's right to expect regular and timely attendance of its employees, with due regard by them of the Company's obligation to schedule and regulate operations as an essentioal part of its management functions."

In the instaant case, notwithstanding the conditions of her "final chance reinstatement, the Company, as the record indicates, attempted to correct Ms. Sepke's deficiencies through progressive discipline under the 80" Hot Stop Mill written no-fault absenteeism policy effectuated in 1983. Thus, following her reinstatement in October 1982, she received a one-turn discipline for absenteeism in January, 1984 which was followed by

another one-turn discipline in July 1985, a two-turn discipline on June 10, 1986, and a three-turn discipline on June 25, 1986.

Underlying the concept of just cause and progressive discipline is the notion that employees may be held accountable for their behavior because they have the capacity to control it. Indeed, under the 1983 80" Hot Stop Mill absenteeism policy, the great probability is that any discipline under the no-fault plan would flow largely from behavior the employee could have controlled. In the instant case, in spite of the Company's attempts to correct her absenteeism through progressive discipline, the grievant's attendance record became progressively worse, and for the relevant seven-month period in 1986, was the worst in the Slab Yard and Dock area of the 80" Hot Stop Mill.

The record in this case, concluding with the disciplinary events in June and July, 1986, indicates to the Arbitrator that the Company had reached the point where it had to decide whether it would continue to keep Ms. Sepke on the payroll. From the record, it is apparent to the Arbitrator that management had given her every opportunity to remedy her poor attendance and report off practices. Finally, nothing in the record suggests that further patience on this Company's part--further talks, warnings or suspensions--would bring the necessary improvement. Accordingly, the Arbitrator finds that the discharge was justified.

Notwithstanding this finding, the Union correctly notes that the collective bargaining agreement in Article 8, Section 1, invests the arbitrator with discretion to modify the degree of discipline imposed by the Company., In this regard, the Union contends that certain factors should mitigate the ultimate penalty of discharge. In particular, the Union maintains that Ms. Sepke, in fact, on two occasions belatedly reported off in June; that many of her absences in 1986 were due to legitimate illnesses; that some absences for personal reasons were the result of problems that her sister had with legal authorities; that her failure to report off for the record review on July 28 was due to a 9 am. bankruptcy court hearing; and, finally, that grievant had 18 years of service with the Company.

With the exception of the periods of legitimate illness, all of the other incidents involved matters within the direct control of the grievant. Moreover, all of the proffered explanations indicate to the Arbitrator that when faced with a choice between her job and her personal situation, Ms. Sepke opted for her personal situation on every occasion and at a time when she was on specific notice that her continuing employment was in jeopardy.

Thus, given her employment situation, she should have called her sister's penal problems to the Company's attention in a timely manner. For example, although she reported off sick on June 14, 1986, she in fact took the day off to return her sister to Indiana Women's Prison, and also failed to report off on June 15. On June 15, she told her supervisor that she took a sick day bacause she thought she would be disciplined if she reported off due to personal business. She was then asked to get proof from the Women's Prison and that failure to do so would result in a 3-day discipline letter. Yet, Ms. Sepke chose not to obtain the required documentation.

Further, the record shows that on several failures to report off, grievant called in several hours after the turn began. During the issuance of both the June 10 and June 25 discipline letters, Mr. Jerome talked to her about her record and warned her about further discipline. Yet, her explanation for failing to report off for her scheduled turn on July 27 was that she misread the schedule, hardly an acceptable excuse for a 17-year employee whose job situation was in jeopardy. In addition, she made no attempt to talk with Mr. Jerome abut this failure to report off.

Finally, in light of all the above, grievant's explanation about failing to report for her scheduled record review on July 28 clearly demonstrates her apparent lack of concern for the seriousness of her employment situation. As the record demonstrates, Ms. Sepke had been told on June 24 that her record review meeting would be held on July 28, following her 3-day suspension to be served on July 23, 24 and 25 (Friday). Although she missed her turn for July 27, she reported for her 11 pm - 7 am turn for July 28, yet, instead of reporting for her record review at the conclusion of her shift she left the plant.

By way of explanation, Ms. Sepke at first maintained that she forgot she had the scheduled review, and then indicated that, in any event, she had to attend a bankruptcy hearing in court which had also been scheduled for July 28, at 9 am. However, the record indicated that she knew on June 24 that she had a record review meeting on July 28, and also knew well in advance that the bankreptcy hearing was also scheduled for July 28. She clearly was under an obligation to apprise the Company of this scheduling conflict well in advance of July 28, and should have attempted to get either the record review or the bankruptcy hearing rescheduled.

As for the Union's contention that the Company should not have considered Ms. Sepke's legitimate illnesses in making its decision, the Arbitrator finds that, under all the circumstances, the Company was

well within its rights to view the entire record of absenteeism for purposes of taking disciplinary action, including her attendance record for 1986.

Finally the Arbitrator must conclude that the grievant's continuous length of service and the experience she brought to her job were obviously considered by the Company in patience it extended to her following her conditional "final chance" reinstatement in 1982. However, as the Company points out, when an employee continues to violate established limits for absenteeism, accumulated length of continuous service does not provide continuing immunity. See, e.g., Arbitrator Mittenhal in Youngstown Sheet & Tribe Co., Decision No. RM-327 (01/31/77).

Accordingly, the undersigned holds that as Ms. Sepke has failed to take advantage of the "final chance" which the Company gave her and continued to violate her obligations with regard to attendance and reporting, resulting in the full of progressive discipline, her discharge was justified and should be upheld.

AWARD

The grievance is denied.

/s/ Herbert Fishgold
Herbert Fishgold
Arbitrator
Washington, D.C.
July 22, 1987