Award No. 857
In the Matter of Arbitration Between:
Inland Steel Company
and
United Steelworkers of America,
Local No. 1010.
Grievance No. 9-T-6
Appeal No. 1468
Arbitrator: Jeanne M. Vonhof
March 26, 1992
REGULAR ARBITRATION
INTRODUCTION
The Undersigned Arbitrator was appointed according to the rules of the applicable collective bargaining agreement. This hearing was held on Friday, February 7, 1992 at the Company's offices in East Chicago, Indiana. The Company filed a pre-hearing brief and the Union filed a pre-hearing memorandum in the case. The Company has raised an issue of procedural arbitrability, which will be addressed in the body of the opinion.
APPEARANCES
For the Union:
A. Jacque, First Vice Chairman, Grievance Committee
J. Robinson, Chairman, Grievance Committee
L. Jones, Grievant
D. Fisk, Griever
A. Dunlap, Jr., Chipper
A. Spencer
For the Company:
B. Smith, Senior Project Representative, Union Relations
J. Sarnecki, Project Engineer, 21" Mill
G. Cain, Secretary, ISBC
S. Sherwood, Personnel Clerk, No. 2A/21" Mill
V. Soto, Project Human Resources Generalist, No. 4 BOF/CC
RELEVANT CONTRACT PROVISIONS:
ARTICLE 3
PLANT MANAGEMENT
Section 1. Except as limited by the provisions of the Agreement, the Management of the plant and the direction of the working forces, including the right to direct, plan and control plant operations, to hire, recall, transfer, promote, demote, suspend for cause, discipline and discharge employees for cause, . . . and to manage the properties in the traditional manner are vested exclusively in the Company. . . .
ARTICLE 6
ADJUSTMENT OF COMPLAINTS AND GRIEVANCES
Section 4. Except as otherwise specifically provided in this Agreement, complaints shall be presented promptly and, in all events, the Step 1 discussion of complaints must be held within thirty (30) days from the date the cause of the complaint occurred, or within thirty (30) calendar days from the time the employee should have known of the occurrence of the event upon which the complaint is based.
ARTICLE 13
SENIORITY
Section 3. The lists of employee relationships shall be kept up-to-date by the departmental management and made available for review upon request (which shall not be unreasonably denied) by the Area Grievance Committeeman. A copy of such lists, which is furnished to the Union in accordance with Section 3 of this Article, shall be provided him once each six (6) months . . . Such diagrams and lists shall take effect at the time of posting, subject to being revised under the grievance procedure of Article 6 hereof, beginning with Step 2, by a complaint filed within thirty (30) days from the date of posting, provided, however, that typographical errors first occurring subsequent to the date of this Agreement will not prejudice the seniority rights of the individual employees in the future.

Section 10. Recalls or Step-Ups in Sequences. Recall to or step- up in the sequence shall be made in the reverse order of layoff or other reduction in forces so that the same experienced people shall return to jobs in the same positions relative to one another that existed prior to the reductions.

BACKGROUND

The instant case involves the permanent demotion of the Grievant upon the closing of part of the Company's plant. The Grievant, L. Jones, has been employed by the Company for twenty-six (26) years. For twenty-two (22) of those years he has been employed as a Chipper Grinder or Billet Chipper at the 10" Mill, assigned to inspect products and remove surface defects. This job was rated as a Job Class 11 during the spring of 1988.

The Company permanently shut down the 10" Mill in May, 1988, after announcing several months earlier that it intended to do so. The Company had held a meeting with employees on each turn in April, 1988 in order to explain the shutdown and options available to employees. On May 13, 1988, the day of the actual shutdown, the Grievant signed a form called a Manpower Information System (M.I.S.) document, which established the Grievant's status after the shutdown. According to the Company, through this document the Grievant permanently waived himself out of his seniority sequence, the Chipping Sequence, and demoted himself into the labor pool, which is rated as a Job Class 2. Through another document he waived out of the plantwide general labor pool, and took a layoff.

In May, 1990 he returned to the plant and was assigned to the No. 2 Blooming Mill. At that time he allegedly discovered that his former seniority sequence had continued after his departure, and that his name had been removed from the seniority list for that sequence as of July, 1988. There also was evidence that, following the shutdown, there was a period of time in which the Grievant's fellow employees in his Chipping Sequence worked at Job Class 5, but that within several months their jobs were classified again as a Job Class 11.

On May 29, 1990 the Grievant filed a Step 1 Oral Complaint alleging that he should have been recalled to his original sequence. On August 3, 1990 the Union filed a written grievance on the Grievant's behalf, claiming that the Grievant should have been recalled to his job when it became available. The Company denied the grievance, the Parties could not resolve it, and it proceeded to arbitration.

At the arbitration hearing the Company also relied upon a letter to the Union Griever for the department, dated May 10, 1988. That letter involves the shutdown of the 10" Mill and states in relevant part,

It is agreed that employees currently established in the Straightening Sequence and Chipping Sequence, shown in Appendices A and B respectively, will be permitted to choose, in descending order of plant continuous service, whether to fill vacancies in their respective sequences or be laid off. Employees who elect layoff rather than work in their respective sequences will not be allowed to change their election and return to their sequence.

The Parties disagree about the significance of this letter, and it will be discussed in the body of the opinion.

THE COMPANY'S POSITION

The Company contends that the grievance should be dismissed or denied. In support of this position the Company argues first that the grievance is inarbitrable because it was not filed within the contractual time limits. The Company argues that at the time of the shutdown the Grievant believed that the Company was giving him the option to remain working at a Job Class 5 or to be placed in the department labor pool, and also believed that this was wrong. According to the Company, the grievance therefore should have been filed at the time of the shutdown.

The Company further contends that the Grievant knew what condition he would be subjected to during his layoff, and therefore the layoff itself does not provide a reasonable excuse for the late filing of the grievance. The Grievant voluntarily waived his pool assignment, which caused him to be absent from the plant for two years, the Company notes. Under these circumstances the Company argues that it would be incongruous to allow the Grievant to return to work and complain that he did not know of an alleged violation because he was on layoff for two years, when the layoff was his own choice.

The Company argues further that an elected Union official occupied a position in the same seniority sequence as the Grievant. According to the Company he had an affirmative duty to inform the Grievant of any consequences that might have affected the Grievant.

The Company further relies upon the language of Article 13, Section 3, which requires any challenges to a seniority list to be made within thirty (30) days from the date of the posting of the list. The Employer notes that this requirement is even stricter than the time limits for the filing of a regular grievance, in order to maintain stability in the seniority lists. According to the Company, the Grievant's name was removed from

the seniority list for his sequence as of July, 1988 but no grievance was filed within thirty (30) days of that date. For all of the above reasons the Company urges that the Arbitrator lacks jurisdiction to hear this case.
As for the merits of the case, the Company contends that the Union has failed to establish a violation of the Agreement. According to the Company, the Grievant voluntarily demoted himself permanently, with full knowledge of the option to remain in his sequence at a Job Class five (5) wage rate. The Grievant may have decided to demote himself because he did not want to work at Job Class five, but having made that choice, the Company urges, it is irrevocable. According to the Company, employees demote themselves for a variety of reasons, but whatever the reason in any particular case, the employee must recognize that for the most part the demotion is irreversible.
The Company also relies upon a Letter of Understanding dated May 10, 1988 and contests the Union's argument that the letter should have been signed by an International Representative of the Union. According to the Company, there is no contractual requirement that this type of letter be in writing, because it is merely a memorialization of an understanding reached between the department Grievance Committeeman and the Department Manager. The Company argues that it has followed the terms of the Letter, in general and specifically in relation to the Grievant. Because it failed to challenge this Letter until the filing of this grievance, the Union is estopped from any challenge at this time, the Company contends.
The Company argues further that the Union has not established any violation of Article 16, Sections 1 or 2, severance provisions which do not apply to the Grievant because he remains employed with the Company. Furthermore, the Company denies the alleged violation of Article 13, Section 10, governing recalls to seniority sequences. Because the Grievant waived all his sequential rights in the instant case, the Company contends, there can be no violation of this provision.
For all of the above reasons the Company contends that the grievance is without merit and that the Arbitrator lacks jurisdiction to hear it. Therefore the Company argues that the grievance should be denied.
THE UNION'S POSITION
The Union contends that the grievance should be granted. In support of this position, the Union argues first that the grievance is not barred due to the contractual time limits. The Union notes that the language of Article 6, Section 4 states that the employee must file within thirty days of when he knew or should have known of the events giving rise to the dispute. The Union argues that the Grievant did not know about the reinstatement of his job until he returned to work nearly two (2) years after the shutdown. The Grievant filed within thirty days of finding out about the change, and therefore the contractual time limits were met, the Union contends.
The Union further contends that the Grievant should not be penalized for taking a layoff rather than remaining on the job in a Class Two (2) job. The Union argues that in taking a layoff the Grievant was exercising a contractual right and he should not be penalized for taking that option.
The Union also argues that the May 10th agreement was not valid because it was not signed by the proper parties. According to the Union this is the first time a Griever has signed such an important document, which affects employees' contractual rights.
As for the merits of the case, the Union argues that the issue in this case is whether the Grievant permanently demoted himself to the labor pool or whether he opted to take the layoff and return if and when his occupation were scheduled again. This is solely a factual issue, the Union contends, revolving around what transpired when the M.I.S. document was signed. According to the Union the Grievant opted to take a layoff because of the information given him by Company personnel. The Union argues that it is not reasonable to conclude that the Grievant would waive out of his sequence knowingly.
In further support of this argument the Union argues that the Company had an obligation to explain accurately to an employee the nature of his rights and benefits during the shutdown. According to the Union the Grievant did not know that the "04" designation on the M.I.S. form indicated a permanent demotion. Furthermore, according to the Union the employees were told that after the shutdown they would be working Labor Grade 2. Most employees who have sufficient seniority will take a layoff rather than work in Labor Grade 2, the Union asserts, and this right is granted by the Agreement.
As relief, the Union is requesting that the Grievant be reinstated back to his original Chipping Sequence. The Union also is requesting backpay to thirty (30) days from the filing of the grievance, in the amount of the difference between the rate of his job in the original sequence and the pay the Grievant has been earning since his return.
OPINION
This is a case involving the rights of a long-term employee whose department, the 10" Mill, was permanently shut down in May, 1988. On the day the shutdown occurred, the Grievant signed several

documents before leaving work. The Company contends that these documents indicated the Grievant's desire to permanently demote himself, and to waive out of the Chipping Sequence. The Grievant and the Union disagree with this analysis, but both Parties agree that he signed papers to go on layoff. Upon his return the Grievant filed a grievance protesting the fact that he had not been recalled when his former seniority sequence was restored to Job Class 11 status.

Procedural Arbitrability

As a threshold matter, the Company has argued that the Arbitrator has no jurisdiction to decide the grievance because it was not filed in a timely fashion. The Company notes that the Agreement requires an employee to begin the grievance process within thirty (30) days of the date when the Grievant knew or should have known of the events giving rise to the dispute. The Company also contends that Article 13, section 3 controls and requires any challenges to the seniority lists to be made within thirty days of the posting of the lists.

In regard to the time limit for challenging the seniority list, evidence at the hearing established that the Grievant was removed from the seniority list for his sequence as early as July, 1988. Article 13, Section 3 does not address directly the situation of laid-off employees or other employees who might not know about their removal from a seniority list because of some absence from the plant.

The desire for stability in the seniority lists no doubt underlies the strict time limits for challenges; this stability benefits the Company, the Union and individual employees. However, the Arbitrator concludes that the situation at issue here is broader and more serious than the typical seniority list dispute which would arise under Article 13, Section 3, because it involves a large shutdown, a layoff and the nature of an unusual waiver of seniority. The language of Article 13, Section 3 suggests that it is aimed primarily at clerical errors involving the seniority lists. Therefore the Arbitrator concludes that it makes more sense to apply the general language of Article 6, which requires the Arbitrator to consider when the Grievant knew or should have known of the events leading to the filing of the grievance.

According to the Grievant, the relevant events which triggered the grievance were the restoration of his seniority sequence to Job Class 11 status several months after the shutdown and the Company's failure to recall him at that time. There is no evidence that the Grievant had actual knowledge that these events had occurred until his return. The Grievant filed his grievance within thirty (30) days of returning to work, which suggests that the filing of the grievance quickly followed his actual discovery of these events.

The Company suggests, however, that different events triggered the grievance and that the Grievant knew of these events at the time of the shutdown. The Company contends that the Grievant believed that he had been wronged at that time because he believed that he was being asked to perform the same work for a lower rate of pay.

In essence the Company argues that the Grievant made an informed choice at the time of the shutdown, and could have filed a grievance at that time regarding the choices being offered him. Having accepted a particular choice at that time, the Company argues, the Grievant cannot file a grievance later over the consequences of that choice.

The Company's position is based upon the assumption that the Grievant clearly understood the options and the consequences of his choices at that time, in the same way as the Company did. For reasons discussed at greater length in a later section of this opinion, the Arbitrator is not convinced that this assumption is supported by the evidence.

Apparently the option of taking a layoff was acceptable to the Grievant at the time of the shutdown, given what he perceived to be his other choices. But the option of returning to his seniority sequence at his former rate of pay did not even arise until some months later and it was this option which the Grievant contends should not have been foreclosed to him.

The Company argues that because the Grievant voluntarily placed himself on layoff, he has relinquished his right to file a grievance over matters that occurred during his absence. The length of the layoff here is a major factor, and the fact that it was chosen by the employee, rather than imposed by management. If the Grievant had been on layoff only a few months, or if the layoff had been totally involuntary, this issue might not have arisen.

However, both the right to take the layoff and its length were direct results of the Grievant's long tenure with the Company. According to the unrebutted testimony of the Grievant, only employees with twenty or more years of seniority were allowed to take a maximum of a two-year layoff instead of a job in the plantwide labor pool, without losing (plantwide) seniority. In addition, it is not accurate to refer to the layoff as totally voluntary. It was voluntary only within the limits of the choices as presented to the Grievant at that time.

Therefore, to dismiss this grievance on the basis that the Grievant "chose" a layoff, and therefore placed himself in the position of not knowing what had happened to his former position, would be to diminish the value of the right to take that layoff, granted by his seniority. The Arbitrator is not convinced that the Parties intended the time limits to operate in this fashion in this situation.

The Arbitrator understands the need for stability in the grievance procedure and that this stability is supported by the time limits applied to the filing of grievances. Therefore the Arbitrator does not mean to suggest that the Parties must entertain every grievance filed after a recall over an event which occurred during an employee's layoff. No doubt there are situations in which an employee on layoff knew or should have known that his or her seniority rights were jeopardized during the layoff.

However, under the unusual circumstances of this case, the Arbitrator concludes that the grievance should not be dismissed due to an untimely filing. These circumstances include the confusion surrounding the shutdown and the Grievant's waiver, described in greater detail below. Under these circumstances the Arbitrator cannot conclude that the Grievant should have known what happened to his seniority status during his layoff; nor can the Arbitrator conclude that he had an affirmative duty to investigate the situation during that period.

Nor is the Arbitrator convinced that the Union had a responsibility to notify the Grievant once the jobs were restored to their former pay status. The Union does not have the primary obligation to recall employees or inform them of their seniority status while on layoff.

In reaching this decision the Arbitrator has considered the other Inland arbitration cases put forth by the Company on this issue but concludes that the facts in this case are distinguishable. The Company also has cited Fairweather's Practice and Procedure in Labor Arbitration, for the general proposition that an arbitrator lacks jurisdiction over a grievance not filed in a timely manner. However, the Arbitrator concludes that this case is more like the series of cases referred to in the following passage from that treatise,

Furthermore, some arbitrators, by analogy to judicial case law concerning the application of statutes of limitations to actions for fraud, hold that time limits on filing run only from the time the grievant knew or should have known of a claim. For example, an employee who was terminated from employment while on sick leave, and hence had no opportunity to learn of his termination until he attempted to return to work, was not barred under a limitations period running from the date of termination. (Fairweather, p. 84).

For the reasons cited above, the Arbitrator concludes that the grievance was not filed in an untimely manner. Therefore the Arbitrator concludes that she has jurisdiction to hear the merits of the dispute.

The Merits of the Grievance

The merits of this dispute involve whether the Grievant has any claim to a job in the Chipping Sequence. The Company argues that the M.I.S. document signed by the Grievant on his last day in the 10" Mill unequivocally establishes his decision to waive his rights to the Chipping Sequence and in so doing, to permanently demote himself as well. The Grievant contends that he did not intend to do either, and he did not understand that he was taking either action by signing the M.I.S. document. The Grievant states that he thought he was agreeing to being laid off until his job was reinstated, if it were reinstated.

The Company relies upon the fact that the M.I.S. document contains the code "04," which means "permanent demotion." Nowhere on the face of the M.I.S. form is there a key which explains that code "04" means "permanent demotion." Nor is there an explicit statement on the form that the Chipping Sequence would continue and that the Grievant was waiving his rights to his seniority in that sequence. There is a section where "layoff" is checked, and under "layoff reasons" the following words are typed in, "Cessation of Dept. operations." This would suggest to the Grievant that his sequence was not going to continue. However, the form also states in the same section, "Employee does nottto work job class 5" (sic). According to the Company this sentence contains a typographical error and should read "Employee does not want to work job class 5," which allegedly is the reason the Company believed that the Grievant was waiving his seniority sequence and agreeing to demote himself. This language suggests that some job was available to the Grievant at a Job Class 5 rate, if the Grievant read and understood this language before signing the document. He has testified that he did not realize that working at Job Class 5 was even an option to him at that time.

The overall impact of the M.I.S. document itself is confusing, and the Arbitrator concludes that the Grievant should not have been expected to understand the significance of the form solely from the form itself. The Company relies upon other evidence as well, however, to suggest that the Grievant did or should have understood its meaning, including explanations by Ms. G. Cain, the Personnel Clerk in the 10" Mill at the time of the shutdown, and Mr. J. Sarnecki, the Grievant's immediate supervisor at that time.

There are certain factors present in this case which enhance the credibility of each of these witnesses. For example, Ms. Cain appeared to be genuinely concerned for the employees with whom she worked, and intended to explain the significance of the M.I.S. form to each employee. Mr. Sarnecki became involved in the conversation with the Grievant because of the Grievant's loud discussion with Ms. Cain, which lends some credibility to his ability to recollect this particular conversation.

However, there are other factors which significantly decrease the likelihood that these witnesses specifically remembered the details of what they told the Grievant. First, it is undisputed that all these conversations took place during the last few days before the shutdown. Ms. Cain described this period as a time when so many employees were frustrated, confused and angry about their status with the Employer that it did not seem unusual to her that the Grievant should raise his voice in discussing his particular situation with her. Under these circumstances it is not surprising that Ms. Cain could not remember any specific details of her conversation with the Grievant. But without that specific recollection the Arbitrator cannot give much weight to the Witness' testimony about what she would have told the Grievant.

Mr. Sarnecki testified that he could remember his actual conversation with the Grievant and that he made it clear to the Grievant that through the M.I.S. document he could permanently relinquish his rights to the Chipping Sequence. However, the Arbitrator notes that Mr. Sarnecki, like Ms. Cain, also had similar conversations with other employees during the final days before the shutdown. The confusion and emotional nature of the situation tend to reduce his credibility that he could recall exactly what was said in his conversation with the Grievant. Furthermore he was not present when the Grievant actually signed the form, so even if he told the Grievant he could waive his sequence, it is not clear that the Grievant realized that he was doing that by signing the form as it was prepared.

The Company also relies upon a document signed May 12, 1988 by the Company and by Mr. D. Fisk, the Union Griever in the Department, which states that employees in the Chipping Sequence could choose to remain in their sequence or be laid off, but employees who elected layoff could not later change their election and return to their sequence. The Griever testified unrebutted that he sought this language in order to prevent senior employees from being retained in a dissolving department at Labor Grade 2. The purpose of the language was to permit employees with the most seniority to move out of the department. The Grievant testified that he did not actually see a copy of this letter before signing the M.I.S. document and there is no evidence to the contrary on this point. The letter was signed only a day before the shutdown.

The Company characterizes the letter as merely a memorialization of discussions which were held with employees around April 20, 1988 to explain the shutdown. The evidence suggests to the Arbitrator, however, that the items covered by the letter were not set in stone by the end of the meetings with the employees in April. Rather, the evidence indicated that it took nearly another month and several drafts of this letter to arrive at the language of the final letter which was acceptable to both Parties.

The Union argues that a document of this import should have been signed by a higher Union official, since it addresses allegedly irrevocable choices regarding the future rights of long-term employees. The last sentence of the relevant paragraph appears to conflict with a contract provision permitting employees to rescind a demotion, but there is not enough evidence on this point for the Arbitrator to decided whether there is a direct conflict and the Arbitrator need not rule definitively on this point.

The Griever testified that he did speak with the Grievant sometime before the actual shutdown, and that he told the Grievant that he could permanently waive out of the Chipping Sequence. He testified further, however, that he told employees that he did not consider any agreement regarding this matter as definite until he had a signed document from the Company. That document is the letter signed May 12th, and the Grievant never saw that letter before the shutdown the next day.

The Griever testified further that he thought the Company was going to use a separate waiver form for employees who chose to waive out of the sequence. Other evidence presented at the hearing also indicated that normally when an employee waives out of a seniority sequence he or she signs a separate waiver form specifically addressed to this action. The Grievant testified that he had signed such a form to waive out of another seniority sequence previously and in the instant case he signed a form to waive out of the labor pool for his department. There was no separate waiver form in this case, however, to waive out of the Chipping Sequence.

The lack of a separate waiver form is a particularly significant factor in the Arbitrator's ultimate conclusion that there is not sufficient evidence that the Grievant definitely intended to permanently give up any rights to a position within the Chipping Sequence, and to permanently demote himself, when he signed the M.I.S. document on the day of the shutdown. The written material which was given to the employees at the April meetings does not contain the information described in the relevant paragraph of the May 10th letter.

Because the letter was not given to the employees before the shutdown and the earlier printed material did not contain the information, the Arbitrator concludes that the Chipping Sequence employees received no written information which adequately described the choices allegedly facing them before they were required to sign the M.I.S. documents at the time of the shutdown. Furthermore, the Arbitrator concludes that the evidence of the verbal discussions with the Grievant was not sufficiently persuasive to indicate that the Grievant received a thorough explanation of the consequences of signing the M.I.S. form as it was prepared. Without the customary separate waiver form, the Arbitrator does not consider the M.I.S. form as sufficient evidence that the Grievant executed an informed, consensual waiver of his seniority rights.

In reaching this conclusion the Arbitrator considers it unlikely that an employee would, with full knowledge and consent, permanently relinquish his seniority rights to a seniority sequence culminating in a Job Class 11 position, and permanently demote himself, in order to accept a Job Class 2 position, or a layoff at that rate. This is the result of the M.I.S. document in this case.

The Arbitrator has considered the possibility that the Grievant did know that his job would be retained at a Job Class 5 rate, and that he was angry about being asked to do his Class 11 work at a lower rate. The Company suggests that his anger might explain why he alone, among all the Chipping Sequence employees, signed a form which the Company took as a waiver out of his sequence.

This argument would be more persuasive if the evidence clearly showed that the Job Class 5 were available at the time of the shutdown. However, there is substantial evidence that the Union had not definitely obtained an agreement that the employees who remained in the Chipping Sequence would be paid at Job Class 5 immediately after the shutdown. Moreover, even if the Grievant did understand that he had the choice to go to a Job Class 5 job, it is still not clear that he understood when he signed the document that he was permanently demoting himself, relinquishing all rights to his seniority sequence, and that he could not return to his job under any circumstances, even if his job were reinstated to Job Class 11 status.

The Company has argued that it was the Grievant's responsibility to know what he was signing before he signed the document. The Union suggests that the Grievant thought he did know what he was signing, i.e. that he was taking a layoff unless and until his job were reinstated. In addition, he was under pressure to make a choice by the date of the shutdown of the department.

There is no evidence that the Company purposely misled the Grievant in this case. However, the Company ultimately was the Party with the knowledge and control over what was happening to the Grievant's seniority sequence at the time of the shutdown. The Company did provide the Grievant with some written and verbal information regarding his options and the operation of the M.I.S. document. Having assumed this obligation, the Company had a responsibility to ensure that the information was adequate so that an employee like the Grievant, who was signing away many years of seniority under the pressure of a shutdown, understood what he was doing. The lack of thorough written information given to all employees before the shutdown meant that employees were expected to come forward, on a random individual basis, and ask the proper questions in order to obtain information about their continued seniority with the Company. The seniority rights involved in this case are too important to be left to such a process; the Arbitrator assumes that this is why separate waiver forms normally are used to waive out of a seniority sequence.

Under these circumstances, the Arbitrator concludes that the Company violated the seniority and recall provisions of the Agreement. However, it is reasonable that the Company did not realize, until the filing of the grievance, that an alleged violation of the Grievant's rights had occurred, because of the Company's interpretation of his M.I.S. document. Therefore the remedy will extend back only until the date of the filing of the grievance.

The Parties have not provided the Arbitrator with information concerning whether there is a vacancy in the Grievant's former sequence or whether his reinstatement to that sequence will cause the bumping of other employees. Therefore the Arbitrator will retain jurisdiction of the case in the event that the Parties need additional help in resolving other disputes which may arise from the implementation of this award.

AWARD

The grievance is sustained in part. The Grievant will be recalled to his position in the Chipping Sequence and be paid the difference between the rate of pay in that sequence and the rate of pay he has earned since the filing of the grievance.

The Arbitrator will retain jurisdiction of the case for thirty days in the event that the Parties desire additional help in implementing this award.

/s/ Jeanne M. Vonhof

Jeanne M. Vonhof

Labor Arbitrator
Decided this 26th day of March, 1992
Chicago, Illinois.