

Award No. 872
IN THE MATTER OF THE ARBITRATION BETWEEN
INLAND STEEL COMPANY

and

USWA IOCAL UNION 1010

Arbitrator: Terry A. Bethel

April 2, 1993

OPINION AND AWARD

Introduction

This case concerns a dispute over the transfer of certain work in the changing of back-up rolls for the 80" tandem mill at the no. 3 cold strip east department. The case was tried in the company's offices in East Chicago, Indiana on February 18, 1993. Jim Robinson represented the union and Brad Smith presented the company's case. Both sides filed pre-hearing briefs and submitted the case for decision on final argument.

Appearances

For the company:

B. Smith -- Arbitration Coordinator, Union Rel.

R. Lindemann -- Sec. Mgr., Maint., No. 3 Cold Strip

S. Rogers -- Manager, No. 3 Cold Strip

J. Spear -- Staff Rep., Union Relations

For the union:

J. Robinson -- Chrm., Grievance Committee

M. Mezo -- President, Local 1010

A. Jacque -- 1st Vice Chrm., Grievance Comm.

D. Godinez -- Griever

R. Schneider -- Griever

W. Spenser -- Griever

D. Remechneider

F. Kinsey

R. Djurich

O. Cochran, III

R. Cox

A. Sanchez

D. Sims

Background

There is little dispute about the facts. Indeed, section manager Lindemann was the only witness who testified. The dispute involves the company's decision to transfer the changing of back-up rolls on operating turns at the 80" tandem mill at No. 3 cold strip east to operating personnel. This change was effected in July, 1992. Prior to that time, the back-up rolls were changed on operating turns by mechanics assigned to no. 3 cold strip east. In fact, until September 1991, such mechanics changed back-up rolls on both operating turns and downturns. Beginning in September 1991, the company assigned the changing of back-up rolls during downturns to mechanics of the Mobile Maintenance Department (MMS). There is no challenge to that assignment in this case. Rather, the sole item in dispute is the company's decision to assign to operating personnel the changing of back-up rolls at the tandem mill during operating turns.

Evidence presented at the hearing included a video tape of a back-up roll being changed by mechanics.

Also introduced was an excerpt from a training manual that details the 41 steps involved in the process.

In addition to the regular planned and unplanned changes of backup rolls, the company also changes the work rolls that make direct contact with the steel. There is no dispute that this work has been done by operating personnel since the tandem mill went into operation more than 20 years ago. Lindemann testified that the work of changing backup rolls and the work of changing work rolls is quite similar. No special skills or tools are required to change either piece of equipment. On cross examination, he acknowledged that there are a few procedures required for backup rolls that are not required for work rolls. For example, there is no shimming for work rolls, there is less leveling and there is less crane work. Moreover, the procedure for changing backup rolls and work rolls differs, though Lindemann said of the procedure, "In general terms, it's the same."

Discussion

In a series of cases presented recently, the union has contested the company's right to transfer work from one seniority sequence to another. It has relied principally on the holding of Inland Award 813, that if a given seniority sequence has performed a recognizable body of work with reasonable consistency and exclusivity, the terms of Article 2, Section 2, as assisted by the principles of Article 13, Section 3, prevent the transfer of more than residual duties across seniority sequence lines. The union advances similar arguments in the instant case, though neither its brief nor its final argument mentions either Award 813 or the contract sections referred to in the preceding sentence.

As is typical in such cases, the union asserts here that the mechanical sequence at no. 3 cold strip east has performed exclusively the work of changing backup rolls and that such work is a separate and distinct body of work. There are two problems with this contention. First, the union faces the challenge of proving that the changing of backup rolls is a body of work separate and distinct from the changing of work rolls on the same equipment, a matter I will address below. Even if it clears that hurdle, the union still has difficulty showing exclusivity because it is uncontested that, while the no. 3 cold strip mechanics have performed such work, so have the mechanics from MMS, who are members of a different seniority sequence. The traditional line of attack, then, seems closed off, since there are admittedly mechanics from two different sequences doing this work.

The union attempts to meet this challenge by pointing to the wording of Appendix N, which says that MMS mechanics will "supplement" assigned maintenance forces on scheduled repair downturns. Thus, the argument goes, this work belongs to the mechanics assigned to no. 3 cold strip, who are merely "supplemented" by MMS forces on downturns. Such supplementation, the union argues, cannot defeat the exclusivity of the assigned maintenance forces, who had the right to the work in the first instance.

I recognize that Appendix N uses the word "supplement." Perhaps that terminology could have the effect contended for here by the union. I have some difficulty, however, concluding that MMS merely supplements the assigned maintenance mechanics when MMS, in fact, does the bulk of the work.

Nevertheless, I can leave this issue for another day. Despite the similarity of this case to other recent disputes grounded in Articles 2 and 13, the union's real claim here is that the work of changing the backup rolls is craft work which belongs to the mechanics and that the company cannot, therefore, defeat the jurisdiction of the craft by assigning the work to position rated jobs. It is to that issue I now turn.

There was no testimony about why the skills of a mechanic are needed to change backup rolls. Indeed, in his final argument, Mr. Robinson candidly stated his position: the changing of backup rolls is a separate and distinct body of work and it belongs to the mechanics not because of the skill involved, but because that craft performed the work exclusively. Although it is clear that mechanics from two different seniority sequences have changed backup rolls, there is no evidence that anyone other than a mechanic ever changed a backup roll until the company made the change complained of here. The company, in fact, concedes as much. It asserts, however, that production employees have changed work rolls at the 80" and that the same skills are involved in that work. In short, the company asserts that viewing the changing of backup rolls as a separate and distinct body of work is artificially narrow and that the appropriate body of work is the changing of rolls at the 80" tandem mill.

The union dismisses this argument by characterizing it as a company claim that "rolls is rolls" and it cites a previous arbitration case which hold that similarity of skill is not sufficient to defeat a craft's claim of exclusivity. In that case, Inland Award 759, Arbitrator McDermott recognized that craft employees are entitled to protect their craft from erosion, whether the assignment of their duties is to position rated employees or other craft employees. There are, however, significant differences between Inland Award 759 and the instant case.

In Award 759, both parties agreed that the duties at issue were craft work. The union claimed that refrigerator repairmen had done the work exclusively and were therefore entitled to protect it. The company countered by asserting that other craftsmen had done the same work on a few occasions, thereby trying to defeat the refrigerator repairman's claim of exclusivity. Moreover, the company argued that other mechanics in the plant had done similar work, which should also suffice to defeat the union's claim of exclusivity. Arbitrator McDermott rejected these claims. He found the small amount of refrigeration work done by other crafts insufficient to defeat a claim of exclusivity, as that concept was commonly understood. And he said that "arguments about similarity of duties do not always prove persuasive." What he found crucial was that, while other mechanics may have performed similar functions, they had not worked on the air conditioning equipment that formed the basis of the dispute.

The union relies extensively on language from McDermott's opinion that concludes that the duties under dispute in Award 759 "got to be duties of the given craft, not because they are easy to do, but because the

craft performed them, exclusively. . . ." The union asserts that the same logic applies in the instant case. Thus, while the company argues that the work of installing backup rolls is not really craft work and that it can be readily done (and, in the case of work rolls, has been done) by production rated employees, the ease of the work is not determinative. This work, the union claims, got to be craft work because members of the mechanic craft performed it to the exclusion of all others.

I think the union's argument is based on a misreading of McDermott's opinion. He did say, as the union points out, that the refrigerator repair work got to be the work of the refrigerator repairmen because they had performed it exclusively. But he made that observation in a much different context than the one at issue here. In Award 759 no one questioned that the work at issue was craft work. The only contention was whether more than one group of craftsmen could perform it. McDermott's answer was no; the refrigerator repairmen had done the work exclusively and it was theirs. The fact that the craft work became theirs because they performed it exclusively, however, is not the same thing as saying that because they performed the work exclusively, it was craft work. Indeed, whether the work was craft work was never an issue in the case.

In the instant case, the company conceded that if the changing of backup roll is craft work then the mechanics have established a right to it to the exclusion of all others. But the underscored language is the issue, and that was a matter not at issue in Award 759. Here, the company claims that the changing of backup rolls is not craft work at all, pointing to the fact that position rated production employees have performed virtually identical work on the work rolls for over twenty years. Despite the union's claim to the contrary, there is no evidence that the changing of backup rolls differs in any significant manner from the changing of work rolls. Lindemann testified that the same skills are required, no matter which rolls are being changed, and that those are not craft skills, evidence that was not rebutted by the union. Lindemann also said that, while the procedures vary somewhat, "in general terms, it's the same."

These parties have had other occasions to argue about whether the performance of similar work duties defeats a claim of exclusivity. Recently, I questioned the extent to which similarity of skills performed elsewhere could defeat a seniority sequence's claim of consistency and exclusivity, a matter in which the decisions (both mine and others) display some inconsistency.<FN 1> That, however, is not what is at issue here. Rather, the union asserts that because the company has consistently assigned the changing of backup rolls to the mechanics, that work is necessarily craft work. But the evidence showed that position rated employees were doing virtually the same thing on exactly the same tandem mill when they changed work rolls. Under such circumstances, I am not prepared to concede that the work done by the mechanics on the back up rolls is craft work. I need not address the union's assertion that work can become craft work merely because it is assigned to craftsmen exclusively, regardless of the skills involved. Perhaps that is so, but those are not the facts in this case. The appropriate body of work is that of changing rolls at the 80" tandem mill, and that work was not assigned exclusively to the craft.

Although the contractual background is different, Arbitrator Neyland (approved by Chairman Dybeck) reached a similar conclusion in U.S. Steel Case No. 23,991-24,909. There, the union protested the assignment of position rated employees to assist craft employees in changing backup rolls in the cold reduction mill. An appendix to the collective bargaining agreement permitted production workers to assist on certain jobs "not requiring craft skills." Arbitrator Neyland observed

. . . it is significant to note that, on this record, the functions performed by production employees in assisting a millwright in changing backup rolls do not appear to be significantly different from the responsibilities associated with the changing of work rolls -- work historically performed by production employees.

On the evidence presented, the Board is persuaded that the responsibilities performed by production employees in changing backup rolls do not require craft skills.

I reach the same conclusion in the instant case. The evidence established no meaningful difference between the changing of backup rolls and the changing of work rolls, and I am unable to view them as two distinct bodies of work. The union raises a significant issue in this case about how work becomes part of the jurisdiction of a craft. As between crafts, Inland Award 759 is helpful. But it offers no guidance when the issue is whether the work is craft work or not. On this record, I am unable to conclude that the work of changing backup rolls is craft work that cannot be assigned to production employees.

AWARD

The grievance is denied.

/s/ Terry A. Bethel

Terry A. Bethel

April 2 1993

<FN 1>I See e.g., Inland Award 869. This confusion is not a new phenomenon. The same inconsistency was noted more than 20 years ago by Arbitrator Koven in U.S. Steel Grievance No. 70089.