

IN THE MATTER OF THE ARBITRATION BETWEEN

ISPAT INLAND STEEL COMPANY

and

AWARD 973

UNITED STEELWORKERS OF AMERICA
LOCAL UNION 1010

OPINION AND AWARD

Introduction

This case concerns the Union's claim that the Company is obligated to pay employees for the time spent acquiring replacement identification badges at the Company's direction. The case was tried in the Company's offices in East Chicago, Indiana on August 14, 2000. Pat Parker represented the Company and Dennis Shattuck presented the case for the Union. The parties submitted the case on final argument.

Appearances

For the Company:

P. Parker.....Section Mgr. of Arbitration and Advocacy
R. Cayia.....Mgr. of Union Relations
H. Junker.....Mgr. Health and Safety
A. Velasquez.....Plant Protection Systems Coordinator
H. Brown.....Fire and Security Chief
J. Van Buren.....Union Relations Intern
K. Brill.....Union Relations Intern

For the Union:

D. Shattuck.....Chairman of Grievance Committee
M. Florey.....Grievance Committeeman
T. Allen.....Assistant Grievance Committeeman
M. Beckman.....Grievance Committeeman

Background

Most of the facts are not in dispute. Since 1992, the Company has required all employees to possess an ID card, which has various uses. Its principal use is to gain access to the plant by swiping a magnetic strip through a card reader. The strip downloads data which allows the Company to know when an employee has arrived and has left the plant, information that is useful for payroll and other purposes. A Company witness described the circumstances that accompanied the original issuance of the ID badges. The Bar Company was used as a test site. Facilities were set up to take employees' pictures and obtain other information. Subsequently, the badges were mailed to employees. After the bugs were worked out, the same system was used throughout the plant. There is no dispute that stations were set up at various places around the plant and that employees obtained the badges on paid time.

The number of employees has been substantially reduced since 1992. The Company says there are unauthorized badges "floating around" that have sometimes been used to gain access to the plant. In addition, the pictures on the original badges are now several years old. Thus, the Company decided to require each active employee – bargaining unit and management alike – to obtain a new badge. This time, however, the Company has elected not to move the camera and related equipment from department to department. Rather, the Company has directed employees

to go to the Hospitality Center on their own time to obtain a new badge. Both parties agree that this has not been a time consuming process. An employee's picture can be taken and a new badge can be issued on the spot in five minutes or less. In addition, employees have seldom if ever encountered any long lines.

The Union contends that the Company is obligated to pay employees for the time spent obtaining a badge. The Union says this is required because the Company recognized the time spent on this activity as time worked in the original issuance. Moreover, the Union submitted testimony – not contested by the Company – that some supervisors have sent their employees to obtain new badges during the regular work day. This is not only unfair to the other employees, the Union says, but also reinforces the fact that the Company recognizes this activity as time worked for which employees deserve compensation. The Union points out that employees are directed to a specific location and have no choice to obtain a badge anyplace else. It also says that the badge is a condition of employment since, ultimately, employees will not be able to gain access to the plant without a new badge. Finally, the Union says that the Company's decision to pay for obtaining the badges in 1992 created a protected local working condition.

The Company acknowledges that in 1992, employees obtained badges on paid time. But, it says, the fact that it paid in 1992 does not obligate it to do so today. In 1992, the Company was under pressure to finish the process in time to implement in-plant parking. And since 1992, employees who have lost passes have not been paid to obtain replacements. Moreover, there is nothing in the Agreement which requires the Company to pay for the time spent obtaining a new badge. There are, in fact, various provisions in the Agreement that require the Company to pay for time not actually worked, ranging from vacations to visits to the plant medical clinic. But all

of those were bargained by the parties and the Company says there is no comparable benefit for obtaining badges. The Company also points out that it does not pay employees for time spent in other activities it requires of them in order to work. For example, truck drivers must have a CDL, which they obtain at their own expense and on their own time. In addition, employees must wear safety shoes and many – probably most – obtain them on Company premises. Yet the Company does not pay for the time spent in that activity.

The Union says, however, that the current situation differs from those examples. Not all employees are required to have a CDL; only those who choose to become truck drivers. Moreover, employees can buy safety shoes anyplace, even if most of them elect to use the Company's facilities. But employees have no choice about where to obtain a badge. The Union says the Company should be ordered to allow employees to get the new badges on paid time and that employees who have already obtained one on their own time must be compensated with ten minutes pay at overtime rates.

Findings and Discussion

The issue here is not the expectation that may have been created among employees but, rather, whether the Company has any contractual obligation to pay for the time. I find nothing in the Agreement indicating that the Company has agreed to pay for the time spent obtaining identification badges. The Agreement obligates the Company to pay the established wage rate for all hours "of work." It is not necessarily the case, however, that tasks employees undertake to put themselves in the position to work must be considered as time worked. It is not uncommon for employers to require employees to obtain safety equipment, licenses or physical examinations

before beginning work. This employer does not pay for the time spent buying safety shoes (or other work clothing) or for obtaining licenses. The fact that the employer might pay for some such non-productive activities is not because they are generally understood to be time worked and it is not because the employee's choices are limited; rather, it is only because the parties have agreed to such compensation. But there is no such agreement for the issuance of badges.


Moreover, the fact that the Company paid employees for the time spent obtaining identification badges in 1992 does not mean that it recognized this activity as working time. The gist of the Company's case is that in 1992, it elected to have employees obtain badges during working hours for its own convenience. The Company says it was faced with time pressure to get the new entry system in operation and that this goal was facilitated by gathering information and taking pictures in the areas where employees actually worked. In 1992, the Company did not know whether it would encounter unexpected problems or whether the cards, as originally issued, would work as advertised. Thus, it made sense that the Company wanted to accomplish the task in as efficient a manner as possible. By contrast, there are fewer uncertainties with the re-issuance, and this remains true even though the Company envisions that the process will be completed in about the same amount of time. Having once paid for the activity does not mean that the Company obligated itself to do so for all time.

Similarly, I find no merit in the Union's claim that the 1992 procedure created a protected local working condition. This was the only instance in which the Company has issued badges in large numbers. Moreover, since that time, employees have been required to obtain replacement badges on their own time.

It is troubling that the Company has elected to allow some employees to obtain the new badges during working hours. The record does not indicate whether these are isolated instances or whether large numbers have been given this privilege, though the Company's closing argument said only minimal numbers of employees were involved and it suggested that there may have been reasons justifying the action. On this record, then, I cannot say that the Company's action prejudiced its right to insist that employees obtain the badges on their own time.

AWARD

The grievance is denied.



Terry A. Bethel
September 7, 2000

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