
In the Matter of Arbitration Between:)

Ispat Inland Steel Company)

Gr. No. 5-V-062

and)

Award No. 983

United Steelworkers of America)
Local Union No. 1010.)

INTRODUCTION

The Undersigned Arbitrator was appointed according to the rules of the applicable collective bargaining agreement. This hearing was held on March 23, 2001 at the Company's offices in East Chicago, Indiana.

APPEARANCES

UNION

Advocate for the Union:

D. Reed, Secretary, Grievance Committee

Witnesses:

- J. Conners, Grievant
- R. Siwyck, Ladle Met Operator
- J. Gonzalez, Instructor, Ladle Met Operators
- P. Fernandez, Griever
- E. Harvey, Former Griever

COMPANY

Advocate for the Company:

C. Lamm, Staff Representative, Union Relations

Witnesses:

- J. Cohen, Supervisor, No. 2 BOF/CC
- J. Bradley, former Section Manager, No. 2 BOF

Background:

The Grievant was established as a Ladle Met Operator at the time of the incident giving rise to his discipline. As a Ladle Met Operator he normally works in a pulpit, overseeing the deslagging, stirring and superheating of molten steel on its way to the continuous casters. He also controls the addition of certain alloys to each batch or heat at this stage in the process. Depending upon customer requirements, heats involve different specifications regarding temperature and additives. Because the casters operate constantly, heats must be sent at a specific time from the Ladle Met operation; the processing of heats may range from 25 minutes to one hour, and normally lasts 25-40 minutes. A delayed heat can be a serious problem, because of the production needs of the continuous caster. If work stops at all at the caster, there is a minimum of a one-hour delay. In addition, a delay at the Ladle Met operation can complicate the work of the Crane Operator, who must be available for the complicated moving of huge ladles filled with molten steel. Furthermore, a delay can cause the collapse of the "shell" of slightly hardened steel on the surface, which can either draw impurities into the steel, or cause molten steel to pour out.

The Supervisor who issued the discipline has worked for the Company for 28 years. At the time of the incident he had worked exclusively as an Auxiliary Supervisor for about one year, although he had worked the position on and off for the previous 10 years. He stated that there are two Ladle Met Operators working in the pulpit, but that generally each Operator processes a heat by himself, unless he specifically asks for help from the other Operator. An Operator generally stays in the pulpit while a heat is processing, although he may need to step out of the pulpit in order to monitor the addition of alloys, for example, or to send samples. However,

according to the Supervisor, the Ladle Met Operator is supposed to stay with the heat at all times, until it is finished processing. There is always the risk of something going wrong with the heat, including the very dangerous possibility of a "burn through," i.e. the ladle brick failing in one spot, permitting the molten steel to spill out of the ladle.

Each ladle is numbered and at some point during the morning in question, one ladle had to be substituted for another. The Supervisor testified that he could not make the ladle number change; he was not sitting at his computer at the appropriate time, because he was overseeing the repair of another ladle. The Supervisor testified about the importance of having each ladle identified with the correct heat number, because each heat must meet certain specifications. If a heat is misidentified, its identity may not be detected until problems arise when the customer uses the steel for its applications. The Company presented a document entitled "Quality Document" which establishes proper procedures for identifying heats. As duties assigned to the Ladle Met Operator, the document sets forth the following,

2. Press the "Heating Instructions" key on the LII keyboard

2.1 Check the ladle number as the heat is put into the station.
Enter the actual ladle number to register the heat.

2.1.1 If the heat information is different than the lineup or the ladle number is different than expected, resolve the discrepancy before processing the heat.

The Supervisor testified that although normally he could change the ladle number at an earlier point in the process, during the day in question the heat already had progressed beyond the point at which he could enter the change in the computer. He said that the Ladle Met Operator was the person who had to change the ladle number at that point. The Supervisor explained that, under the procedures established in the document cited above, the Ladle Met Operator is supposed to

notice that the ladle he is receiving has a different number than anticipated, and call the Pit Foreman to determine why the change was made. The Supervisor testified, however, that on the day in question he called the Grievant to inform him that the ladle number was different than the ladle originally assigned to the heat, and that he would have to change it. The Grievant replied, "Whatever," according to the Supervisor.

The Supervisor testified that the Company's records show that the heat arrived in the Ladle Met area at about 2:40--2:43 a.m. At about 3:00 a.m. he noticed on his computer screen that the ladle number still had not been changed. He called the Grievant again to make the change, and said that the Grievant told him that he should get a better computer program to change ladle numbers. About five minutes later the Supervisor noticed that the number still had not been changed and he walked to the Ladle Met area to see what was causing the delay. The Grievant was not in the pulpit or in the immediate area of the heat, and the other Operator did not know where he was. The Supervisor found the Grievant standing in the lunchroom with two other employees. The lunchroom is located about 40-50 feet away from the pulpit, down a flight of stairs. The Supervisor testified that when he asked the Grievant why he hadn't changed the ladle number yet, the Grievant said something like, "If you want it changed, change it yourself. It's not my job to change it." According to the Supervisor, the Grievant became more and more hostile, saying to the Supervisor, "This is f----- up. I'm tired of your b---s---." The Supervisor said that he felt as though the Grievant were trying to demean his role as a supervisor in this exchange.

The Supervisor stated that the Grievant left the lunchroom and walked back to the pulpit, and the Supervisor followed him. The Grievant shut off the furnace breaker, which stopped the

heating process for the heat. He put his personal belongings in his duffel bag and began to leave. The Supervisor asked him several times if he were walking off the job, and the Grievant did not answer. As he left, the Grievant said that he wanted to see Mr. Perkins, the Turn Coordinator. The Grievant went to the lunch room, where he was followed by the Supervisor. The Supervisor told him to wait there for Plant Protection and the Supervisor told one of the other two Operators there to come upstairs, take over the heat and change the ladle number.

The Company's records show that the heat was supposed to be completed at 3:28 a.m. and the Company presented testimony that the Grievant would have been aware of this fact. The heating element was turned on at 3:02 and turned off (by the Grievant) at 3:06 a.m. At 3:16 a.m. the ladle number was changed by the employee who replaced the Grievant and finished the heat, with it leaving at 3:31 a.m.

The Grievant was disciplined with the balance of the turn plus ten days for violations of the following rules:

Rule 132 p -- Neglect or carelessness in the performance of duties assigned or in the care or use of Company property

Rule 132 q -- Insubordination (refusal or failure to perform work assigned or to comply with instructions from supervisory forces)

Rule 132 r -- Use of profane, abusive, threatening language towards Supervisors or other employees.

The Union filed a grievance over the discipline. On cross-examination, the Supervisor was asked whether he and the Grievant had ever had problems before the day in question. The Supervisor stated that they both voice their opinions in discussions, but they had never had an altercation like this before.

The Grievant stated that he intended to change the ladle number at the end of the processing of the heat, which is the easiest time to do it. He testified that when he said "Whatever.." to the Supervisor, he meant that he knew that he needed to change the ladle number. He contends that he did not say the words which the Supervisor attributed to him in the lunchroom, but he did tell the Supervisor to "leave me the f--- alone," because the Supervisor was "hounding" and irritating him. He said that as a Ladle Met Operator he works self-directed, and there is very little need for a supervisor, except to obtain the services of other employees, like welders or mechanics, when needed. The Grievant has more than 23 years of service. He had a reprimand in 1996, but no discipline for poor workmanship or insubordination. He testified that he has been recognized for his productivity and that he has no animosity towards the Supervisor. He worked as an hourly foreman for about a year and a half, but quit that job because he believed that the comments of an hourly foreman hold no weight with salaried employees.

On cross-examination, the Grievant testified that he left the pulpit the first time after putting in the electrode because he had a TV dinner in the microwave in the lunch room, and the lunch room is still within the area of the pulpit. He admitted that he never gave the Supervisor an explanation about why he had not changed the ladle number already. He denied that he told the Supervisor to get a programming change. He said he left the pulpit after packing his bag because the Supervisor was trailing him and hollering at him. He acknowledged that supervisors have the authority to tell employees what to do, but said that they have to talk to people right.

The former Section Manager for the No. 2 BOF testified that he determined the level of discipline for the Grievant, based upon the severity of the multiple infractions which the Grievant committed. He said that there were four rule violations and that two were very serious. The

Section Manager stated that the potential problems associated with a heat being misidentified are enormous, citing a past incident in which the Company provided steel of the wrong specifications to a customer, who made school bus axles out of it. When a ladle number is changed, it must be corrected at the next processing station, which in this case was the Ladle Met operation. The Grievant was instructed several times to make the change and did not do it. If the Supervisor had not caught the problem, the wrong steel might have gone to the customer. The Grievant indicated by his inaction his refusal to perform the work, after being instructed several times to do the job, according to the former Section Manager. He also became loud and abusive towards the Supervisor.

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Another very serious violation, according to the former Section Manager, was the Grievant leaving the operating station while the heat was in process. The Grievant was found on a floor one level below the pulpit, while he was heating the steel, thereby risking the safety of other employees if anything had gone wrong in his absence. In addition, the Grievant shut down the operations and walked off the job, after his verbal altercation with the Supervisor. The Section Manager had originally considered a much more severe penalty for the Grievant's actions, and considered a 10 day suspension fairly lenient. He said that this was the most blatant refusal to perform a job, after repeated orders to do so, that he had ever seen.

On cross-examination he acknowledged that the Pit Foreman or the Furnace Operator has the first responsibility to connect the correct a ladle number in the computer data. He also acknowledged that it is possible to allow the heat to go all the way through to the casthouse with the wrong number and inform the caster operators to change it. However, this violates the procedure embodied in Company Ex. No. 1, which the Section Manager wrote. The procedure at

issue is part of the Company's efforts to meet international quality standards. Operators following these procedures is at the heart of meeting the international standards, and if the Company loses the certification that it is meeting these standards, it would lose some of its major customers. He disagreed with the Grievant's contention that it is best to change the ladle number at the end of the Ladle Met process. According to the Section Manager, a lot of data is collected during the process, and it would be archived incorrectly if the heat/ladle number were wrong during the process. In addition, the purpose of the procedure is to change the number at the earliest opportunity, so that there is less risk of operators becoming distracted and forgetting to change it. He said that it takes less than two minutes to make the change.

Another Ladle Met Operator testified that it is a very stressful and highly-skilled job. The primary objective of the job is "to make sure you can make a connection," i.e. get the heat to the caster on time. He testified that the heat number is more important than the ladle number in identifying the heat, because once the heat is sent to the caster, the ladle is sent back to the pit. He said that it is much faster to change a ladle number down at the pit, before coming to Ladle Met, where it might take 5-7 minutes to make the change. He acknowledged on cross-examination that the Grievant could have changed the number at the beginning of processing of the heat -- the most difficult time to make a change is in the middle of the process. However, he said that his first priority is to process the heat on time, and he has less time at the beginning of the heat. The Witness testified that there are not set times for employees to eat. He has told the other operator in the pulpit to watch the heat while he runs down to the lunch room to throw something in the microwave.

The Union also offered the testimony of an employee who has worked as an Instructor for Ladle Met Operators. He testified that it is rare for Ladle Met Operators to change ladle numbers, and if they do so, they generally do it as a favor. He said that it is the Pit Foreman's job to change a ladle number and if he were asked to do it, he would ask the Pit Foreman why he had not done it. He said that he would change the number if ordered to, but he would prefer to do it after the heat had left the processing station. He acknowledged on cross-examination that if he were leaving to go eat, or to go to the bathroom, he would take the electrodes out.

The Griever for the Department testified that there have been no grievances over employees disciplined for not changing ladle numbers. The former Griever for the No. 2 BOF testified that he was not aware of any other employee receiving 10 days off for something of this nature. He noted that the discipline letter was not issued to the Grievant until after he returned from serving his suspension. In addition, although an investigation was conducted the day after the incident, and the Grievant was told that he would be suspended, he was not informed of the length of the suspension at that time.

The Company's Position:

The Company contends that the Grievant was disciplined for violating long-standing rules, of which he should have been aware. The Grievant was highly-trained and should have understood the importance of the heat being identified correctly. Changing the ladle number is a simple task, which takes only a few moments, the Company argues. In addition, the Grievant was the only one who could change the ladle number at that stage of the process.

The Company argues that the Grievant was ordered to perform the work three times and that he refused to do so. In addition, the Grievant left the heat unattended while it was being heated and stirred. There was no way for him to quickly respond to anything which might have gone wrong at the heat, the Company urges.

The Supervisor believed that the Grievant's use of profane and abusive language to the Supervisor in the lunchroom was intended to undermine his authority as a supervisor. Then the Grievant walked off the job, while the heat was still processing, even though he knew that the heat was due at the caster soon. The Company argues that a 10-day suspension could have been imposed upon the Grievant either for walking off the job or for insubordination, and requests that the Arbitrator not reward the Grievant by modifying the discipline. He took matters into his own hands, and should be disciplined accordingly.

The Union's Position:

The Union contends first that changing the ladle number was not the Grievant's job; it is the job of the Pit Foreman. No one else has been disciplined for incorrect ladle numbers. The Union argues that the discipline resulted from an inexperienced, overanxious Supervisor who never directed him to stop what he was doing immediately and change the ladle number, before sending him home. The Ladle Met Operators are self-directed, highly-trained employees, and the Grievant had far more experience with the job than the Supervisor who disciplined him. He is a very good employee with high tonnage records, and no prior record of poor workmanship.

Once he told the Grievant to change the ladle number, there was no need for the Supervisor to harp on him. The Union points to Inland Award No. 676, in which the Arbitrator

commented upon a supervisor who continued to badger and "egg on" a Grievant. The Grievant here had no intent not to change the ladle number, according to the Supervisor. The Supervisor never told him to stop what he was doing, and change the ladle number, or be sent home. The Grievant never intended to leave the job unattended. Employees are required to eat "on the fly" in the Ladle Met job, and the Grievant was doing that.

The Union argues that there was only about a 3 minute delay in processing the heat in question. Even if the Grievant were responsible for that delay, the Union argues, he should not have been given 16 days off for a 3-minute delay.

Decision:

This is a 10-day suspension of an employee for violations of three rules. The issue arose over the changing of a ladle number during the ladle treatment process. The Grievant has not denied that he was given the order to change the ladle number. However, the Union suggests that the order to change the ladle number may not have been proper. The Union presented evidence that changing the ladle number is not normally a job duty assigned to the Ladle Met Operators; that rather, it is the responsibility of the Pit Foreman, the function which was being served on the day in question by the Supervisor who disciplined the Grievant. The Supervisor offered a reasonable explanation for why he could not make the ladle change on the day in question, as he was overseeing another project at the time during which he would have had to make the change. The evidence indicated that once the ladle reaches a certain point in the process, the Pit Foreman cannot change the ladle number -- it must be done by computerized equipment at the next stage of

the process. Even the Union's witnesses acknowledged that Ladle Met Operators are sometimes required to make a ladle number change.

The Union presented considerable testimony that the best time to change a ladle number is *after* processing the heat. However, the written procedures introduced by the Company state that discrepancies in ladle numbers should be resolved, and entering the actual ladle number should be done *before* processing the heat. The former Section Manager offered a sound rationale for this procedure: the Operator is less likely to become distracted and forget to change the ladle number if it is done at the beginning of the process. On the basis of this evidence, the Arbitrator concludes that the initial order given by the Supervisor to change the ladle number was not arbitrary or unreasonable.

The Grievant is a highly-skilled operator, working a difficult job under tight time constraints. When he first received the order to make the change from the Supervisor he may well have intended to perform it, but believed that it made more sense to do it at the end of the process. From the evidence of the other witnesses, it appears that this departure from the written procedures was committed by other Ladle Met Operators, who were not disciplined. Thus, the Grievant's initial failure to make the ladle number change immediately would not necessarily provide grounds for discipline for insubordination.

However, when the Supervisor called back again, asking why the number had not been changed already, the Grievant should have realized that the Supervisor wanted the change made immediately. At that point in time it may have been particularly difficult to perform the change because the heat was in the middle of processing, and the evidence suggests that it is more difficult to make ladle number changes during the processing of a heat, as opposed to at the

beginning or end of the process. However, it is not clear that the Pit Foreman knew this. If the Grievant believed that it was not a good idea to carry out the Supervisor's orders immediately, he should have informed the Supervisor at that time of his reasons for delaying. Instead the Grievant essentially resorted to self-help, neglecting to carry out an order now given twice, and failing to tell the Supervisor why he was not carrying it out.

The Grievant works in a largely self-directed position. Both the Grievant and the other witnesses who testified about the position at the arbitration hearing gave the impression that the Ladle Met Operators regard themselves proudly as highly-skilled operators, required to make many decisions on their own. However, when a Supervisor gives an employee a direct order and repeats it, even an employee in a highly-skilled, self-directed position is not justified in ignoring that order, and offering no sound explanation for his actions.

When the Grievant was confronted with his failure to perform the task, the Supervisor testified that the Grievant became abusive and profane. Although the Grievant denied that he made some of the comments attributed to him by the Supervisor, the Arbitrator concludes that the Supervisor is more credible on this point. Furthermore, the evidence does not disclose that the Grievant at that point agreed that he would perform the order or that he made any effort to do so.

In addition, the Company takes issue with the fact that the Grievant had left the heat unattended while he went to the lunchroom. The Union presented evidence that the Ladle Met Operators do not have an assigned lunch time, because their process feeds into the needs of the continuous casting process. However, there was testimony by other Union witnesses that they would not leave the heat while the electrode was in and it was heating and stirring, or would not leave without letting the other Operator know about their whereabouts and the status of the heat.

There is no evidence here that the Grievant performed either of these precautions before leaving the floor on which the pulpit is located.

The Union argues that the Grievant did not intend to leave the heat unattended. However, he did leave the heat unattended, and the Company has provided credible evidence about the dangers of doing so. Furthermore, the evidence indicates that the Grievant essentially walked off the job while a heat was processing. He packed up the duffle bag in which he keeps his personal belongings at work and left the pulpit. The fact that he took his personal belongings with him suggests that he did not intend only to speak with the Turn Coordinator, and then return to work. Even if that were his intent, he was not justified in leaving the heat with just 20 minutes to go before the heat was expected at the caster. ¶¶

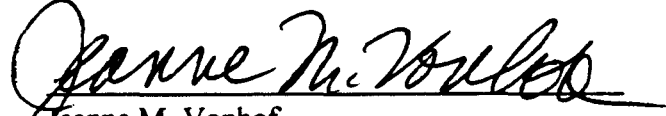
The Union and the Grievant indicate that the Supervisor was acting in an overzealous, badgering way towards the Grievant. The evidence shows that the Supervisor did initiate several contacts with the Grievant over the course of the heat, followed him to the pulpit and then the lunchroom, and probably was talking in an insistent manner. However, the Grievant had failed to complete a task which the Supervisor considered important, and which is important in assuring that customers receive products made to their precise specifications. The fact that one finished product may look exactly like another, and yet contain different alloys, and be processed differently, renders strict identification procedures crucial. The Grievant had given no reason for his failure to complete the order, despite several opportunities to do so. He spoke in an abusive and profane way to the Supervisor when questioned about it. The Supervisor probably was angry and insistent by that point, but that reaction is understandable. Even an employee who is accustomed to working independently has an obligation to obey a supervisor's orders. If the

Grievant objected to the order or to the way in which the Supervisor was talking to him, he could have filed a grievance later.

The Arbitrator concludes that the Grievant's actions were serious. The Union characterizes his actions as 16 days off for a 3-minute delay, or a serious suspension for failing to change a ladle number. However, the Arbitrator concludes that there is sufficient evidence in the record to conclude that the Grievant did refuse to obey an order, failed to offer any explanation for doing so and became abusive towards a Supervisor when asked to explain his actions. In addition, the evidence supports the fact that the Grievant walked off the job at a crucial time, giving the appearance that he was leaving the workplace for the remainder of the turn. The Union has not demonstrated that other employees who have engaged in similar behavior were afforded lesser discipline. Therefore, the Arbitrator concludes that the grievance must be denied.

AWARD

The grievance is denied.


Jeanne M. Vonhof
Labor Arbitrator

Decided this 24th day of June, 2001.