ARBITRATION OPINION

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In the Matter of:

INLAND STEEL COMPANY

and

UNITED STEELWORKERS OF AMERICA

CASE No. 111-3429-HO

Arbitration Board

Pursuant to a joint request dated October 4, 1943, John K. Kyle was named as sole arbitrator by the Sixth Regional War Labor Board of Chicago, Illinois.

Hearing

A hearing was conducted at the offices of the Inland Steel Company at Indiana Harbor on October 29, 1943, at which both parties presented evidence.

Question

Was the lay-off of Frank Merkl, second class maintenance man at No. 1 Open Hearth on a Saturday, after he had been employed Sunday through Friday inclusive, a violation of the collective bargaining contract now in force between the parties, and particularly Article V, Section 7, which reads as follows:

> Section 7. If, due to emergency or other proper cause, it is necessary to disrupt an employee's schedule by working extra hours within the consecutive work week, he shall not be prevented from working the balance of his normal weekly schedule.

Discussion of the Issues

A. Union's Contention:

1. That Merkl was on a regular schedule Monday through Saturday.

2. That at the request of the Company he reported for work and was employed for eight hours on a Sunday.

3. That failure to call him for work on the following Saturday was a disruption of his schedule and therefore a violation of the contract.

B. Company's Contention:

1. That Section 7 of the contract was not intended to apply to maintenance men.

2. That there is a historic background for the shifting of schedules of men on maintenance crews.

3. That Article II of the rights of management gives the Company control over the direction of planned operations.

4. That they are in doubt as to whether or not Merkl could have been employed on the seventh day and paid double time under the provisions of Executive Order No. 9240

C. Discussion:

The parties to this controversy were in agreement upon the proposition that the work week starts on Sunday and ends on Saturday night. There is also apparent agreement upon the fact that the regular schedule of Merkl was Monday morning to Saturday night inclusive, 48 hours per week consisting of six eight-hour days. This schedule was posted in open hearth No. 1.

It appears clear to the arbitrator, therefore, that the calling of Merkl to work on Sunday was a disruption of his schedule similar to that which might result if he were retained to work four hours over-time on Monday or some other day of the week, or of he were called back in the evening for two, four, or any number of hours after, say, eight or nine o'clock.

The clause of the contract hereinbefore referred to clearly provides that "he shall not be prevented from working the balance of his normal schedule" when due to emergency or other cause it is necessary to disrupt his schedule. It seems clear that a call to work on the normal day of rest, especially Sunday, is a definite disruption.

With reference to the question raised about Executive Order 9240, it appears clear under the following interpretive bulletin issued by the Secretary of Labor that it is proper to pay Merkl double time for the seventh day. In interpretive bulletin No. 1 issued February 17, 1943, the Secretary of Labor said: "It is not the purpose of the order to disturb employment contracts which contain provisions for extra compensation for enerous work, night work, or emergency work (i.e. work resulting from a sudden condition calling for immediate action); which extra compensation is in no way related to premium pay for work on Saturday, Sunday, or particular days as such." "Accordinly, the order would not invalidate contracts, practices or customs calling for more than time and a half for hours in excess of twelve on a shift since such work is ordinarily regarded as particularly onerous."

"Likewise, the order would not invalidate contracts calling for premium pay for "call-in work" where the employee is summoned to duty outside his regular work schedule, and such premium rates are unrelated to work on Saturday, Sunday, or any other day as such."

It is clear, therefore, that the contract provisions which

in the instant case happened to fall on Saturday, are not modified by Order 9240.

In view of the clear language of the contract clause, the failure to differentiate in said clause between maintenance work and production operations, and the testimony at the hearing that the application of this clause to maintenance men was discussed at the time of drafting the clause, the arbitrator has reached the conclusion that Merkl was entitled to work during his regular schedule within the consecutive work week.

ARBITRATION AWARD

It is the considered judgment of the Arbitrator that

1. Frank Merkl should have been employed on Saturday, which was a part of his regularly scheduled consecutive work week.

2. That he should be paid double time at the rate provided in the contract for the one day he was laid off.

s/ JOHN K. KYLE

Arbitrator

Dated this 20th day of November, 1943