

ARBITRATION NO. #14

Grievance No. 1487

1. Nature of the grievance.

The grievance is a request for a wage adjustment because of existing conditions.

The grievance was filed on August 3, 1944 on behalf of the Refractory Laborers.

2. Position of the Union.

A. The Union requests a wage adjustment of the refractory laborers to correct for a series of conditions which have deprived them of the opportunity for incentive earnings which they have previously enjoyed as part of their job. These conditions are the following:

1. Floor stock now comes in lump sizes that are difficult to handle. Manganese which is the major item handled comes now in lumps which weigh much more than previously. Because of this heavier weight these lumps are harder to handle and accordingly result in a reduction in the opportunity to make incentive earnings as compared to the previous period.
2. Types of cars now being used do not have door openings, making it impossible to use wheelbarrows to unload materials. Whereas previously the type of car permitted the worker to wheel in a wheelbarrow, now he is required to handle material over the side of the car into a bin. Box cars which permitted entrance with a wheelbarrow have been replaced increasingly by the gondola type car which has to be unloaded by hoisting the material over the side of the car. This change increases the amount of labor and the amount of time required to handle an equivalent tonnage as compared to previously.
3. Stock piles are not now being maintained causing floor stock to be unloaded in bins which are already full, making it difficult to find space to unload materials. Previously the material from 50 to 100 cars a day was put in a stockpile. Now this material has to be unloaded directly from unsuitable cars into the bins. This changed factor has reduced the opportunity to make incentive production.
4. Due to full operations now, space is not available for the piling of brick in the departments, causing the men to wheel bricks further and to pile them only where they can find space. The floor is crowded with line boxes, brick and other items, and crane service is not available. The facilities for piling are inadequate. Space which was used previously for piling bricks is now used for storage of other material. These difficulties have increased the amount of time required to handle the material as compared with the previous situation.
5. New types of brick of all kinds and sizes are now being brought in, making it difficult for the men to handle them. Previously bricks used to come in all of one size brick to a car. Further, material is more brittle now and must be handled with much more care. This is particularly true of Vega bricks. The metal case bricks are heavier and harder to handle;

more of the brick is of this type than previously. These new conditions in the type of bricks have been another factor which has interfered with the opportunity of the workers to make as much incentive production as previously.

6. New methods of unloading cars have taken jobs away from the refractory laborers. Hopper cars are now being used. The bottoms of these cars may be pulled, allowing the materials to fall out. Previously such material was unloaded by hand and yielded the workers substantial earnings.
 7. Laborers from other departments have taken over some of the better paying jobs that were formerly done by the refractory laborers, thereby cutting down their earnings. Previously the refractory laborers had the job of unloading spelter and tin, both of which tasks yielded good earnings. Now this work is no longer given to the refractory laborers.
 8. Wheelbarrows are not in the best condition due to the Company's inability to get parts. The wheelbarrow is the most important implement of the refractory laborer since the speed and amount of his work depends on it. Formerly the wheelbarrows were in good condition - now they are in less satisfactory shape. This has created an additional handicap to the workers in their work and consequently has interfered with their previous opportunity to make incentive earnings.
 9. Men are required to maintain their own wheelbarrows where they formerly had a man maintaining them. On the Plant 1 side there is no man to repair the wheelbarrows. This condition is another handicap in the work of the workers.
 10. The workers are now subject to much more delay than previously. The workers are required frequently to wait for long periods of time, during which time they cannot engage on the incentive production on which their earnings depend. One primary instance of such delay is waiting for crane service; these workers have no authority to ask for such crane service. During these waits and delays the workers are not paid the common labor rate but are forced to stand the loss in incentive earnings that results from the inability to engage in incentive production during the delays.
- B. Because of the above changed conditions the workers have been required to work much harder and faster in order to maintain the same level of earnings.
- C. The above enumerated changes have occurred since the filing of the Form 10 application leading to a wage adjustment for the refractory laborers.
- D. It is important not to confuse the content of the present grievance with the conditions that led to the Form 10 application which was approved by the National War Labor Board. The Form 10 application was for a new rate. This grievance refers to something quite different - namely, to a change of the job due to changed conditions. This change is not covered under the old rate.

3. Position of the Company.

- A. In the fall of 1943 the men involved in this dispute sought an adjustment in their wages to compensate for a reduction in their earnings brought about by changed conditions of their work. It was alleged by the men and acknowledged by the Company that the physical condition of certain commodities handled by the men and circumstances under which they combined to slow them up and consequently effect a reduction in their earnings. Labor Board approval was sought and obtained by order of the War Labor Board dated April 25, 1944 and made effective as of September 1, 1943.

On August 3, 1944, the present grievance was filed requesting a wage adjustment "due to existing conditions." Management caused a study to be made of the matter and under date of October 4, 1944, a report was made by the Industrial Engineering Department which revealed that the claim of the men was without foundation and as a result thereof, Management denied the request.

- B. The Company denies the Union's claim that conditions are changed. The study and report of the Industrial Engineering Department have proved Management's contention in this regard. With reference to the specific changes which the Union alleges, the Company wishes to say:

1. Sizes of lumps - There has been no variation in the size of the manganese lumps during the last three years. The large size lumps come only a few in a car - the cars normally have a normal size of lumps.
2. Type of Cars - The percentage of gondolas with high side gons is minor and their use is due to the inability of the railroad to supply enough cars with low side gons.
3. Stock piles - The Company has always maintained stock piles and maintains them today. Where it is possible to carry material directly to the bins instead of first putting it in a stock pile, this is the proper thing to do.
4. Available space - Due to the stress of wartime production it is sometimes difficult, but a space is always found in which to pile the material.
5. Types of brick - The brick being brought in now is no different and no more difficult to handle than that brought in previously. It has always been customary to have mixed brick in cars. The weight of the different sizes and kinds of brick has not changed during the past five years.
6. New methods of unloading cars - the use of hoppers is a wartime measure to meet a shortage of box cars. Only about 5% of the manganese is handled in hoppers.
7. Work done by other departments - the refractory workers handle spelter and tin only when they are called upon to do so by other departments.

Since the refractory workers are so busy with their own work they are not able to do these other jobs which belong in separate departments and which are performed by the laborers in these departments. As soon as the refractory workers are able to do this work which lies outside of their particular round of duties, it will be given to them.

8. Condition of wheelbarrows - The Company bought 24 steel wheels with roller bearings but the men refused to use them. Because of the rubber shortage the Company has been unable to secure rubber tire wheels. It has had an order placed for these wheels for a long time.
9. Maintenance of wheelbarrows - The Company always has someone to repair wheelbarrows when necessary. This type of work is a privilege given to a worker in the department who reports for work but does not feel able to do the regular work. He is paid at the common labor rate.
10. Delays - Allowance has been made for delays in the setting of rates which guarantee to the men a very good wage.

All of the above conditions which the Union alleges to be changes have existed for a number of years and long before the filing of the Form 10 application which resulted in the refractory workers being given a wage adjustment to correct for their condition. In the discussions preceding and leading to the form 10 application the Union advanced as arguments the same conditions which they now declare are changes that have happened since the filing of the Form 10.

- C. The payroll records indicate clearly that the refractory workers have not incurred any reduction in incentive earnings. The actual average earnings are as follows:

<u>YEAR</u>	<u>EARNINGS PER HR. (INCL. \$0.155)</u>
1942	\$1.37
1943	\$1.365
1944	\$1.43
1945	\$1.455 (Jan., Feb., Mar.)

- D. The Company feels that the men have not acted in good faith in this matter but have taken the law into their own hands in utter disrespect of the terms of the order of approval entered by the National War Labor Board in the adjustment case previously referred to wherein the order reads, "No further increases will be granted unless an unusual situation exists from factors originating at least six months subsequent to the date of the present application." It was but a matter of a very few months before the men filed the present grievance. On occasions since that time they have deliberately engaged in slow-downs and other curtailments and restrictions of production, which is in direct violation of Section 13, Article VI of the agreement between the Company and the Union.
- E. To grant a wage adjustment in this case would not merely be an injustice but would tend to condone and encourage disrespect for the lawful authority that is not only inherent in the plant management but is formally acknowledge and expressed in the terms of the agreement between the Company and the Union.

4. Analysis and Discussion.

The problem that is set by the present grievance is whether the changes in job duties and content which the Union alleges, have occurred and, if so, whether they warrant an adjustment in wage rates as a correction. It is necessary to consider each of the ten conditions which the Union declares to have changed:

- 1) This arbitrator has not been given any substantial evidence that there has been any significant change in the sizes of the lumps of the floor stock. It is inevitable that there may be variation in the size of the lumps from car to car and from time to time. There is no showing, however, for a steady or continuing change in the size of the lumps over a period of recent time. Nor, consequently, is it demonstrated that the size of the lumps as currently handled differs substantially from their sizes in previous times. This Arbitrator cannot regard this alleged change as having taken place.
- 2) There is some indication that there has been a change in the type of car. This Arbitrator has not been able to ascertain the extent of this change but he is led to believe on the basis of the testimony and the evidence he has that this extent is slight.
- 3) There is some indication that stock piles are not being maintained as frequently or to the extent as previously was the case. However, it seems clear that the incentive rates which were set were not predicated on the material being handled to or from stock piles instead of directly to the bins. Since the rates do not reflect any difference in these conditions, any change in these conditions could not be used as a basis for protesting the rate.
- 4) It is not possible to calculate the extent to which there is not the same availability of space for piling brick as previously. This is an item which neither this Arbitrator or anyone else can determine. The testimony leads this Arbitrator to regard this factor as of minor significance.
- 5) In the judgment of this Arbitrator it is questionable whether any change of importance has occurred in the kinds and sizes of brick, making their handling more difficult. This is again, an item, which does not lend itself to any precise determination. The testimony of the respective witnesses of each party do not add up to a decisive picture of any significant change.
- 6) This Arbitrator cannot regard the use of hopper cars as providing any basis for claiming the need for a revision of the incentive rates. As far as this Arbitrator can determine there has been no agreement or understanding between the parties that such cars were not to be used or that they were to be used to only a designated extent. The use or non-use of such cars does not enter into the conditions of time study nor into the conditions on which the incentive rates were based. Consequently, this item must be regarded as not relevant to the issue in dispute.
- 7) The same position must be taken with reference to the allegation that the workers do not have the opportunity now of unloading such materials as spelter and tin since such unloading is now being done by laborers from

other departments. There is no indication that conditions of work of the refractory laborers required that they do this type of work. It seems clear that this work is not strictly in the jurisdiction of the refractory workers but instead apparently it was done merely because other departments were willing that the work should be done by therefractory group. Since the refractory workers have no claim on this work as part of their acknowledged work, they cannot allege the absence of such work as a basis for demanding a change in incentive rates.

- 8) There is evidence that the condition of the wheelbarrows is not as good as it had been previously. However, this Arbitrator is frankly not convinced from the testimony and evidence that this change in condition has been of such a degree as to constitute a factor of significance. Had the change in condition been great it is almost certain that there would have been a vigorous complaint on the part of the workers to have such a vital condition changed. The fact that the workers have been able to maintain high production in their work (according to the Union this has been higher than previously) leads this Arbitrator to believe that the condition of the wheelbarrows couldnot have been significantly different than their previous condition.
- 9) The evidence with reference to the maintenance of the wheelbarrows is not decisive. Apparently, however, provision was made for the repair and maintenance of the wheelbarrows. This Arbitrator is satisfied that the Company has not been negligent in this matter. Had the Company been negligent to any significant extent the workers would certainly have registered a vigorous complaint in ways other than thru this omnibus grievance.
- 10) This Arbitrator regards the charge of greater delay and standby time to be much more important and much more crucial than any of the other changes alleged. Again, the evidence on this point is not decisive. It is not known to what extent delays occur nor the average amount of such delay time per worker per shift. In response to the request of this Arbitrator the Union has submitted a record of delays incurred by a number of refractory laborers on eleven days running from June 18, 1945 thru July 3, 1945. From his calculations this Arbitrator finds that the workers covered incurred an average of 58 minutes per turn. (per man). It is not possible to know whether the record of delays submitted by the Union can be regarded as typical. The Company in its comments on the submission has challenged the Union's record.

Even though the figure of 58 minutes per man per turn be accepted as typical it would seem to fall well within the amount of time allowed by the Company. The Company declares that its time studies on which the rates of the refractory laborers are based make allowance for over 90 minutes of "blocked" time and personal time per man per turn. This Arbitrator does not believe that the delay and standby time of the refractory laborers when averaged out per man per turn would be found to be more than such ninety odd minutes.

From the foregoing remarks it is seen that three of the ten conditions alleged to have decreased the opportunity to make incentive earnings are not relevant to the dispute grievance. These three conditions - less use of stock piles, use of hopper cars, and the return of certain kinds of work to the laborers of other departments - cannot be regarded as depriving the refractory workers of an opportunity on which they had a legitimate claim as an intrinsic part of their work. As far as this Arbitrator can ascertain there was no understanding that the stock piling of materials the non-use of hopper cars, or the handling of certain materials in the jurisdiction of other departments were part of the

conditions of work of the refractory laborers.

Of the remaining seven conditions three are very questionable - change in the size of lumps, change in the type of bricks, and an increase in the amount of delay time or standby time beyond what is allowed in the time studies. As the above discussion indicates no showing has been made that any of these three alleged changes has actually occurred.

The remaining four alleged changes - change in the type of car, change in the availability of storing space, change in the condition of the wheelbarrows, and the maintenance of the wheelbarrows - seemingly have taken place. However, these changes, (which are peculiar to war-time conditions) do not appear to have been pronounced or substantial.

Attention is called to the increase in incentive rates that were effective Sept. 1, 1943. It is clear that this increase was instituted to take care of conditions such as the above. In the judgment of this Arbitrator it is reasonable to believe that the increase in incentive rates allowed for the four changed conditions mentioned in the preceding paragraph.

Finally, it should be noted that the earnings of the refractory laborers have increased over the period of time to which the alleged changes refer. The earnings are indicated as follows:

<u>YEAR</u>	<u>EARNINGS PER HR. (Inc. \$.155)</u>
1942	\$1.37
1943	1.365
1944	1.43
1945 (1st 3 mos.)	1.455

While this increase in earnings does not prove by itself the maintenance of the same level of incentive opportunity it can be reasonably interpreted in this way in the light of the above discussion.

Inasmuch as some of the alleged changes are not relevant to the grievance issue, since others have not been shown to have occurred, and since the remaining ones were seemingly allowed for in the wage adjustment made effective Sept. 1, 1943 this Arbitrator does not find that the alleged changes constitute a just claim within the terms of the Agreement.

5. Award of the Arbitrator.

This Arbitrator denies the grievance.

Herbert Blumer

Arbitrator