

ARBITRATION AWARD

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INLAND STEEL COMPANY  
Indiana Harbor Plant

and

UNITED STEELWORKERS OF AMERICA,  
LOCAL UNION NO. 1010, C.I.O.

Grievance No. 18-B-14  
Weldon G. Hile

Introduction

This arbitration was heard at the Labor Relations Meeting Room, Plant 1 Clockhouse, of the Indiana Harbor Works Plant of the Inland Steel Company in East Chicago, Indiana. It involves one grievance and one employee, Weldon G. Hile. Hile was injured while at work for the Company on April 7, 1927. The grievance is that Hile be granted his full seniority to his original hiring date, December 27, 1926.

This grievance was filed December 19, 1946, under the terms of Seniority Article VII of the 1945 agreement, and was pending at the time of the signing of the May 7, 1947, collective bargaining agreement. The May 7, 1947 agreement provides that such grievances shall be considered under its grievance procedure but shall be settled under the applicable provisions of the 1945 agreement.

At the time of Hile's accident, there was no Union in the plant. In 1937, the Steel Workers Organizing Committee started its organizational campaign. The Governor's Agreement, signed by Inland Steel Company and Steel Workers Organizing Committee, came about in 1937. The first real collective bargaining contract between the Company and the present Union came about in 1942.

The reason for the grievance is to obtain certain benefits due to seniority, applicable to pensions, vacation privileges, etc. If Hile is reinstated then after 25 years' service, he will be entitled to 3 weeks' vacation, and a little added pension when he reaches the age of 65.

Background of the Dispute

Mr. Hile was employed by the Company on December 27, 1926, in the Transportation Department, as a Switchman. On April 7, 1927, he was injured while at work. The injury consisted of compound fractures to five bones in the top part of the left foot and lacerations to the left foot; together with a compound fracture to the large bone of the right leg below the knee, and lacerations to the leg.

Immediately upon being injured, Hile was sent to a hospital where he remained until June 20, 1927. While at home, he still remained under a doctor's care. On November 7, 1927, he was returned to the hospital and was finally discharged from the hospital on November 23, 1927.

On April 30, 1928, the Company doctor told Hile he could return to light work. This is denied by Hile. The Company arranged for him to start working on January 21, 1929, at which time he did not report for work, and according to the Company, he did not give any reason for not reporting. On January 24, 1929, the Company wrote Hile that he was being given until January 28, 1929, to

report to work. The Company stated that he did not report for work on January 28, 1929. Hile stated that he did report on that day and was told that the job was temporary and that due to weather conditions and condition of Hile's feet, he would not be allowed to go to work as it might result in another compensation case. The Company contends that on February 25, 1930, Hile was re-employed as a new employee; the Union contends that he was not re-employed as a new employee, but continued to work as an old employee of the Company. At the time of the hearing, Hile was still working for the Company.

The question of damages due to Hile's injuries was up before the Indiana Industrial Board, and on December 10, 1929, it rendered its Award. Final settlement of the Award was made on December 16, 1929.

Until October 3, 1929, the Company had been paying temporary compensation to Hile and had kept his name on its list of employees. On November 9, 1929, his name was dropped as one of the Company employees.

On November 20, 1934, Inland Employees Representation Association first raised the subject of Hile's reinstatement to his original hiring date. The Company denied the grievance but stated that it would look around for a job more suited to Hile's condition. The Company contended that this grievance was so settled; and on December 17, 1934, Hile was placed on a job requiring less walking - that of Weighmaster.

On October 1, 1937, the Steel Workers Organizing Committee, Lodge 1010, filed a grievance again raising the issue of Hile's reinstatement. On November 5, 1937, the Company denied this Union's grievance. The said Union did not appeal the grievance to the State Commissioner of Labor for a final decision as set forth in the Governor's Agreement of 1937.

In August, 1942, a new collective bargaining agreement was signed between the United Steel Workers of America, Local 1010, formerly known as the Steelworkers Organizing Committee, Lodge 1010, and the Company. Collective bargaining contracts between the Company and Union were also entered into in 1945, 1947, and 1949. On December 19, 1946, about twenty months after the signing of the 1945 agreement, that Union filed the present grievance.

#### Issues

1. Whether the grievance is subject to the decision of the arbitrator.
2. Whether Hile should be granted his full seniority to original hiring date.

#### Contentions of the Parties

##### Union Contentions

(1) Hile was away from work from April 7, 1927, to February 25, 1930, due to the injuries received while working. Upon his return to work on February 25, 1930, the Company should have reinstated him as of his original hiring date, December 27, 1926.

(2) The Company gave Hile no suitable employment until February 25, 1930. At that time, he was not required to go through any rehiring process such as is normally required of new or re-employed personnel. Hile had every reason to believe that his service record had not been broken, and he only found out about the break in his service record when he applied for the Inland Savings Plan in effect at the time.

(3) In the light of new pension and Insurance Agreements, coupled with more vacation privileges, it is essential that Hile gave his service credit established from his hiring date.

(4) Hile is entitled to have his service record changed to December 26, 1926, the date of his original hiring, on the basis that he was injured through no fault of his own while in the performance of the requirements of his job, and he returned to work as soon as he was physically able and as soon as he was offered suitable employment.

#### Company Contentions

(1) Since the issues in this grievance are identical in all respects with the 1934 and 1937 grievances, and since the 1934 and 1937 grievances were satisfactorily settled by the Company and Hile's agents, there can be only one logical conclusion: the Union should never have filed this grievance and the Company should never have accepted it.

(2) In prior settlements of this grievance, the Company denied that the entire period the aggrieved was absent (approximately two years and eleven months) was due to his inability to work.

(3) Hile was dropped from the rolls because he was absent from work without good or proper reason and was dropped by the application of the same rule as other employees are dropped when they are absent without permission. He was rehired in the same manner as any other employee in the same circumstances would be rehired.

(4) It would be an injustice to the employees who began work during Hile's absence if the established rules were circumvented and Hile were to be placed above them on the seniority list.

(5) From 1926 to 1930, the rules used in determining the status of absent employees provided as follows: The Time Office prepared a list of each department's employees who were absent for more than one pay period; this list was sent to the department, where the names of those employees who were absent for some allowable reason, such as sickness, injury, leave of absence, etc., were stricken from the list; this list was then returned to the Time Office, and all names not stricken from the list were dropped from the employee roll. Hile's name appeared on this list, and each month while he was receiving compensation, his name was stricken. In October, 1929, when compensation payments stopped, and he was not at work, his name was not stricken from the list, and the Time Office dropped his name from the rolls on November 9, 1929.

(6) Hile's present term of employment began when he was rehired February 25, 1930; that Hile was advised that he was then being rehired and accepted employment under such conditions.

(7) The 1945 Agreement does not provide for a review by arbitration of grievances settled at a prior time; therefore, this grievance is not subject to the decision of an Arbitrator.

Discussion

The second paragraph of the letter, dated February 23, 1950, addressed to this arbitrator, involving this grievance, signed by both the Company and the Union, reads as follows:

"Subject grievance requests full seniority reinstatement to original hiring date for one aggrieved employee. This grievance was filed December 19, 1946, under the terms of the Seniority Article of the 1945 Agreement, and was pending at the time of the signing of the current Collective Bargaining Agreement, dated May 7, 1947, which provides that such grievances shall be considered under the grievance procedures set forth in the 1947 Agreement and settled in accordance with the applicable provisions of the 1945 Agreement. Copies of both Collective Bargaining Agreements are enclosed so that you might familiarize yourself with their provisions as regards this particular dispute."

Section 4 of Article XIV of the May 7, 1947 Contract reads as follows:

"Pending Grievances. All grievances which were filed under the terms of the 1945 Agreement between the parties, as amended and supplemented, on the date hereof and which are now in the process of adjustment will be considered under the grievance procedure set forth in this agreement and settled in accordance with the applicable provisions of the said 1945 Agreement, as amended and supplemented, in effect at the time the cause of the grievance occurred."

Section 3 of Article VI of the 1945 Contract reads as follows:

"Should differences arise between the Company and the Union as to the meaning and application of the provisions of this agreement, or should any local trouble of any kind arise in the plant, there shall be no suspension of work on account of such differences, but an earnest effort shall be made to settle such differences orderly and promptly in the following manner: \*\*\*\*\*".

Paragraph (e) of Section 3 of Article VII of the 1945 Contract dealing with seniority reads as follows:

"Continuous service shall be terminated as follows:  
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- (e) Absence exceeding period for which statutory compensation was payable due to injury on duty, except when in the opinion of the medical director this period should be extended."

It must be kept in mind that cause for this grievance actually arose on November 9, 1929 when Hile's name was dropped as one of the Company's employees; that the first grievance was not filed until November 20, 1934 by the Inland Employees Representative Association; that at the time of the injury and at the time Hile's name was dropped as a Company employee, there was no Union or Collective Bargaining Contract. A letter of the Company's, dated March 3, 1931, stated that Hile was not eligible to join the Profit Sharing as he was re-employed on February 25, 1930. This undoubtedly started the series of grievances filed.

In 1934, as above set forth, a grievance on behalf of Hile was first filed. This grievance was denied by the Company. The Company, however, did, on December 17, 1934, give Hile a job as Weighmaster which required less walking than the job he had. This the Company contended was a settlement of the grievance.

The same grievance was filed on October 1, 1937 by the Steel Workers Organizing Committee, Lodge 1010, under the Governor's Agreement of 1937. The grievance was again denied by the Company. Neither the Union nor Hile appealed to the Commissioner of Labor as they had a right to do under said agreement.

The same grievance was again filed on December 19, 1946 under the terms of the seniority article of the 1945 Agreement and was presented to this arbitrator for decision.

The original grievance now goes back to a period in excess of 21 years.

In order to get a clear picture, it is necessary to review a few of the salient facts in this matter.

Hile, when he appeared before the Industrial Board of Indiana for Workmen's Compensation, asked for employment. Final settlement before the Board took place on December 16, 1929. In January 1929, before the said final settlement, Hile was offered a job by the Company to commence on January 21, 1929. Hile did not appear for work. He stated at this hearing that he had to go to a dentist and asked his mother to call a Mr. Perry at the Company to tell him why he would not appear for work. The Company denied receiving such a call. Hile testified that, "nine chances out of ten, the operator referred her (his mother) - there were two Mr. Perrys in the plant, and the call evidently went to the Electrical Department instead of the Transportation."

On January 24, 1929, the Company sent a letter to Hile setting forth that he was expected to appear for work on January 21, 1929 and that he did not show up; and that if he expects employment, he must report for work on January 28, 1929.

The Company kept Hile on its rolls as an employee until November 9, 1929. In view of that fact the Company waived any question it might have had as to Hile being dropped as an employee prior to November 9, 1929. But the facts as given do show that Hile was available for work in January, 1929.

Why Hile did not appear for work before February 25, 1930 is not explained in the record other than the statement by the Union that the Company did not offer him suitable employment.

This grievance was first filed on November 20, 1934 and apparently settled when the Company gave Hile the job of Weighmaster on December 17, 1934.

However, in October 1937 the grievance was filed for the second time under the terms of the so-called Governor's Agreement. The Company denied the grievance and it was not appealed to the State Commissioner of Labor for a final decision. The clause permitting such a disposition reads as follows: "If no agreement is reached by the procedure the issue will be settled by the Commissioner of Labor and his decision shall be final."

On December 19, 1946, the grievance was filed for a third time under the 1945 Contract to be settled in accordance with the applicable provisions of the said 1945 Agreement, as amended and supplemented, in effect at the time the cause of the grievance occurred.

Let us first consider the seniority rights of Hile on November 9, 1929 when his name was dropped by the Company as one of its employees. The accident to Hile occurred on or about April 7, 1927. He was offered a job by the Company on January 21, 1929 and again on January 28, 1929. The Company continued paying Hile his weekly temporary compensation under the Workmen's Compensation Act due to his injury until October 3, 1929. When said payments stopped on October 3, 1929, Hile did not report back for work. Even after the final settlement on December 16, 1929 of the Award of the Indiana Industrial Board, Hile did not report back for work until February 25, 1930. The Company, on November 9, 1929, in accordance with its said policy set forth in its Contention 5, dropped Hile's name from its list of employees, as Hile was found to be absent from work without an allowable reason. From October 3, 1929 to February 25, 1930 Hile never reported for work and gave no reason for his absence. The Company, under all the circumstances at that time, was justified in dropping Hile from its roll of employees.

This grievance, as filed on December 19, 1946, comes under the seniority terms of the 1945 Collective Bargaining Agreement as set forth under the said Section 4 of Article XIV of the May 7, 1947 Collective Bargaining Contract. That section, among other things, sets forth that the grievance is to be settled in accordance with the applicable provisions of the said 1945 Agreement, as amended and supplemented, in effect at the time the cause of the grievance occurred.

The 1945 Contract was not in effect at the time the cause of the grievance occurred. But assuming that it was, then paragraph (3) of Section 3 of Article VII of the 1945 Contract would be decisive of this grievance. It in effect says that continuous service of an employee shall be terminated by an absence exceeding the period for which statutory compensation was payable due to injury on duty. Statutory compensation to Hile was terminated on October 3, 1929. Let us assume, however, that it was not terminated until December 16, 1929 when the Industrial Board Award was settled. Certainly Hile's absence from work until February 25, 1930 would be sufficient to terminate his continuous service. No opinion by any medical director was set forth extending the period of statutory compensation.

Therefore, even under the terms of the 1945 Contract, Hile would not be entitled to his full seniority to his original hiring date, December 27, 1926.

It must therefore be held that Hile was rehired on February 25, 1930, and that his said grievance be denied.

The said letter of February 23, 1950, signed by the Company and the Union, gave this arbitrator ample jurisdiction to determine the grievance involved by

this Award.

AWARD

It is the Award of this Arbitrator:

1. That the grievance involved is subject to the decision of this Arbitrator.
2. That the said grievance of WELDON G. HILE be and the same is hereby denied.

Dated this 12th day of April, 1951.

Harry Abrahams  
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Arbitrator