

IN THE MATTER OF ARBITRATION)

INLAND STEEL COMPANY)

and)

UNITED STEEL WORKERS OF AMERICA)
CIO, LOCAL NO. 1010)

AWARD

GRIEVANCE NO. 16-C-276

PETER M. KELLIHER
Arbitrator

APPEARANCES:

FOR THE COMPANY

Herbert C. Lieberum, Assistant to Superintendent of Labor Relations
Thomas G. Cure, Divisional Supervisor, Labor Relations
William Pope, General Foreman, Roll Shop
H. Muller, Assistant Superintendent, Roll Shop
A. Kapshull, General Foreman, Cold Strip Roll Shop
G. Ostoich, Clerk, Cold Strip Roll Shop

FOR THE UNION

Joseph B. Jeneske, International Representative
Donald Lutes, Chairman, Grievance Committee
James Stone, Grievance Committee, Cold Strip Mill
L. Zughaum, Grievance Committee, Roll Shop
Augie Sladcik, Grievance Committee Secretary

STATEMENT

The parties were unable to satisfactorily adjust a certain grievance and accordingly determined upon arbitration as a means of final settlement.

Pursuant to the request of the parties, the Director of the Federal Mediation and Conciliation Service designated PETER M. KELLIHER to serve as Arbitrator. After proper notice to the parties, hearings were held in INDIANA HARBOR, INDIANA, on SEPTEMBER 13 and 14, 1951. At the hearings the parties were afforded an opportunity to present oral and written evidence, to examine and cross-examine witnesses and to make such arguments as were deemed pertinent. A full transcript of the proceedings was taken.

THE ISSUE

At the commencement of the arbitration hearings, duly authorized representatives of the parties stated their understanding that the Issue is as follows:

Was the ten day disciplinary layoff
of John Falcone justified? (T.6)

POSITIONS OF THE PARTIES

UNION'S POSITION

The Union presented a summary of its position as follows:

1. That the aggrieved did inadvertently enter on his record a set of rolls as being ground on April 13, 1951, which he did not grind. This he readily admitted.
2. That the aggrieved entered these rolls by mistake as a direct result of choosing these rolls for processing for he and his partner prior to the time that he was told by his partner that they were "fire cracked."
3. That the set of rolls actually processed by the aggrieved on the turn in question were never recorded by him at any future date, hence there was no possibility of him getting additional compensation.

4. That so obvious an error, as made by the aggrieved, would certainly be caught immediately by supervision and it would be impossible for the aggrieved to do as the Company alleges he had intended to do, unless the Company at this point wish to admit lax supervision which would allow such things to pass unnoticed.

5. That the Company allegations, based upon the fact that the aggrieved turned in a set of rolls as being ground on a turn when they were being used in the mill, that the aggrieved intended to turn in the set of rolls processed by him on April 13, and not recorded by him at some future date was based entirely upon assumption and not fact. The Company has made no allegations that this was ever done by the aggrieved in the eighteen years he has been in the shop, consequently how can they assume that he intended to do so now.

6. That the Company, if it were not trying to get at the aggrieved, should have made a thorough check of the situation regarding practices in the Shop, and had them stopped instead of making a so-called example of the aggrieved because they apparently did not like him.

In view of the statements made here, there can be no doubt that the only thing that the aggrieved was guilty of was an honest, unintended mistake, which certainly did not warrant ten days of discipline. The suppositions and allegations regarding intent made by the Company against the aggrieved are groundless and not based upon any past similar activity. Had any one but the aggrieved been involved in the matter, it is extremely doubtful that they would have received more than a mild reprimand letter. The aggrieved has been employed in the Strip Mill Roll Shop for eighteen years, during which time he has worked faithfully and without need of discipline. Outside of the mistake made by the aggrieved in recording the wrong roll numbers, he has done nothing but follow regular shop practice and the build up of the case against him is obviously one which could be built up against most any Roll Grinder in the Shop.

The Union can find no justification for the action taken by the Company against the aggrieved and requests that the name and record of John Falcone, Check No. 13151, be cleared of all allegations made by the Company and that he be reimbursed by the Inland Steel Company for the ten days' pay lost by him as a result of the unjust discipline."

COMPANY'S POSITION

The Company states its position as follows:

"The logic of Falcone's accounting for his wrong reporting of April 13 disappears when followed to a conclusion. This illogical explanation, coupled together with the fact that he included the work that he did on roll T-9628 April 13 in his work on April 15 and collected pay a second time for the same work, could not then, and cannot now, be accepted as proof that Falcone had not deliberately and with purpose made false entries on his report of April 13.

The decision to discipline Falcone was not made hurriedly. When the false report of April 13 came to light, it was recognized that Falcone did perform a like amount of work on an entirely different set of rolls. It was unreasonable to believe that Falcone would submit a fictitious report for no other reason than that of confusing the records.

The history of rolls T-9628 and T-9148 (rolls Falcone ground April 13) were traced in the roll shop records. The records showed that the next work performed on roll T-9628 was reported by Falcone on April 15. He reported remating it with roll J-37050 when its former mate, roll T-9148, became fire cracked after only fifty minutes' use in the mill. On Falcone's April 15 report, he reported he had ground roll T-9628 from a diameter of 19.395" to 19.380", a reduction of .015". By this report, he claimed for the second time the same .011", he took from the roll on April 13 when he ground it from a diameter of 19.395" to 19.384" and charged it to the rolls that were to be scrapped (T-9628 and J-36771). The roll shop record sheets from which this first information was taken do not show the

exact period that the roll grinder grinds the rolls. It shows only the time he spent doing it, so from this first check, management learned only that he had reported the same work done on this roll a second time. When given the ten (10) days off, he was disciplined for submitting a false and deceptive report April 13 and creating a position where he was able to collect twice for his work.

It was not until after the grievance was filed that a further check was made, and this time all available records were searched to ascertain if the discipline was just or unjust. This investigation revealed not only what Falcone had reported but how he had done his reporting. Falcone's acts, as re-constructed from all the records available, proved to be more deceptive and more malicious than management had ever imagined them to be when they disciplined him with ten (10) days off.

Starting on April 13 through the 14th and 15th, his reports are one continuation of falsehoods and fabrications premeditated and designed to fleece the Company out of money. How much of this he did before April 13 and after April 15 is yet unknown, but for this period, and this is the period involved in the grievance, we have reconstructed his acts as follows:

On April 13, Falcone and Brentner worked together as a team grinding cold strip mill rolls. Brentner did the rough grinding and Falcone did the finishing. As they performed the work, they tallied it on the front and back of a shipping ticket. At the end of the turn, their work report cards were filled out by copying from this ticket. The first and third items on the front side of the ticket were reported on Brentner's work report card, leaving the second item on the front side and the only item on the back side for Falcone to report. Here we find that he reported only the second item on the front side of the ticket and substituted roll numbers T-9623 and J-36771, their diameters and a reduction from their diameters for the item he had on the back side of the shipping ticket. Falcone had this ticket when he made his report. This is evidenced by his initial on the second item on the front side of the ticket. Now, is it reasonable to believe that anyone could look at this shipping ticket and mistake the T-9628 to be T-9623 and then make all the entries that Falcone did? With the exception of the .011 and the .003, every figure on Falcone's report is different. This could not be an unintentional error. It is deliberate false reporting and as we check further, we will find it was done with malice aforethought.

Falcone has not gained anything by this false entry and of course he could not know what was going to happen in the future. He did not know just how or for how much he could exploit withholding a report on these rolls, so he had to wait his opportunity.

It was not long in coming. Rolls T-9628 and T-9148 entered the mill at 2:25 a.m., April 14 and were taken out again at 3:15 a.m. and sent to the shop when roll T-9148 became fire cracked. Falcone worked the 8-4 turn April 14. The rolls were in the shop on that turn -- roll T-9148 was fire cracked so it was a complete loss, but roll T-9628 was almost perfect. It had just been in the mill fifty minutes. It had to be remated. Roll J-37050 had to be ground to mate it. This was done, and the rolls entered the mill that same evening at 7:20 p.m. These rolls had to be ground before that time.

Rolls T-9628 and J-37050 do not appear on Falcone's report cards for the fourteenth. However, they do appear on his report cards of the fifteenth. We know he could not have done this on the fifteenth because the rolls entered the mill at 7:20 p.m. the fourteenth, and at that time they were the same diameter that Falcone's reports show he finished the rolls to at 6:00 a.m., April 15. There is no disputing the rolls were ground, so when were they ground? If Falcone ground them, he would have had to do it on the 8-4 turn, April 14. His report does not show it, so he deliberately falsified his report that day just like he did on the thirteenth and certainly no explanation that he was confused by similar roll numbers could fit here. If he were not adverse to deliberate falsification on

the fourteenth, there is no reason to believe that he had any reservations about this when he made his report on the thirteenth.

The next questions to be answered are how could Falcone do this work on the fourteenth - his report shows that he was occupied eight hours at other work; and if he did the work, why didn't he report it?

In answer to the first question, it is pointed out that Falcone reported that he worked cleaning the tank of his machine for two hours. Cleaning the tank is a most indefinite work item. It may or may not have been needed or done. The actual time cleaning it could be anything from 0 minutes to two hours so Falcone had this time to juggle and what other time he may have manipulated. On his report of the fifteenth, he reported working four hours on roll J-37050. It is extremely doubtful that he worked on this roll for four hours. Records are such that it cannot be established just what he really did on this roll or how much time he spent on it. However, there cannot be any doubt, that whatever he did, it was done on the 8-4 turn, April 14. If he did the other work he reported that day, he must have done roll - J-37050 and T-9628 in the two hours he reported he was cleaning the tank. On his April 15 report, he reported two hours on roll T-9628. We know he spent little or no time on T-9523. That is the one he was holding awaiting this opportunity, and its diameter was not 19.395" as he reported but 19.384" as shown on Company Exhibit A. This is the answer as to how he was able to do this on the fourteenth and still report eight hours worked on other items.

Now as to the second question - why didn't he report it on the fourteenth? His work schedule was such that he was off only eight hours between the fourteenth and the fifteenth, and he would be paid premium time for the fifteenth. By using the advantage he gained by falsely reporting T-9623 on April 13 and whatever manipulations he made on roll J-37050, he had built this up into a pretty big job - six hours' work and 1.4 hours' bonus. By reporting it on the fifteenth, he received time and one-half for it, or 9 hours' work and 2.1 hours' bonus. In addition this gave him six hours to use on the midnight shift as he saw fit."

The Company further contends that the Grievant did not plan to be available to stamp his work report cards at 6:00 and therefore fabricated clock stamps. The Company considers this to be further evidence that Falcone is guilty of deliberate deception. The Company alleges that the Grievant received \$19.06 more than he would have received had he not falsified his reports.

DISCUSSION AND DECISION

The evidence in this case is highly conflicting. The principal point at issue is whether the Grievant was guilty merely of a clerical error in reporting on April 13 or whether he deliberately reported the fire cracked set in order to create the possibility of later gaining additional compensation. The evidence is that the Grievant did reduce the set of rolls that he actually worked on the day of April 13th by .011. He was paid for this reduction although the work was listed as being applicable to the fire-cracked set of rolls. The Grievant while first inclined to believe that it was not possible to do work on one day and turn it in later on another day, later conceded that there was a tendency to do that in the Shop (T.90). The Union, both in its brief and at the hearing, clearly states that there is such a practice. (T.90). When he next worked on roll T-9628, he reported and was paid for taking .015 off the roll although he actually took off only .004. Although the Company claims that he performed this work on the 14th of April, the Grievant reported that he did this work on the 15th. Because the Grievant further indicated that on the 15th, which was a week-end, he did not work in cooperation with a partner, (T.170 and 208) he was responsible for making the roll after he completed the work. If he did so, he would surely know that the roll was off .011. Even if he did make the roll, an experienced roll grinder should know the difference between taking .015 off the roll and .004. The work

done by the Grievant on roll T-9628 was performed within the period of a few days. The Union's testimony is that although it is possible to be off .006 on a mike, anything in excess of this would be unusual. (T.193). There is a regular time allowance and a difference in payment depending upon the amount of stock taken off. When an employee takes off between .001 and .006, he gets a certain time allowance. If he takes off over .006, he gets a higher allowance. (T.212). The Grievant's own testimony is that while an employee may "hedge a couple, or three thousandths on a set of rolls in order to gain the time allowed for eleven rather than the lesser time allowed for eight," any amount in excess of three thousandths and particularly the amount of eleven thousandths would be a definitely unusual situation. (T.188). The testimony in this case further indicates that the Union, prior to the arbitration hearing, was not fully aware that the Grievant had an opportunity and did in fact profit by his incorrect reporting of April 13 (T. 85, 99 and 172). The Grievant at the time of the Hearing testified that he stood to gain because he testified, "when the roll came back it was smaller than the -- I didn't have to take off as much stock as I would have the other way." (T.170) The Grievant, however, denied that he did so intentionally in stating, "on the 13th I was supposed to have stolen the grinding on a set of rolls which I did. But it was not through my fault. It was only through a clerical error." (T.175).

The weight of the evidence is that the Grievant, through a series of erroneous reports, brought about a situation where he could and did profit from his actions. Under all of the circumstances in this case, the Company made a reasonable determination of his intention that warrants the imposition of the ten day disciplinary lay-off.

AWARD

The ten day disciplinary lay-off of John Falcone was justified.

PETER M. KELLIHER

Dated at Chicago, Illinois

October 26, 1951.