

710 # 90

IN THE MATTER OF ARBITRATION

INLAND STEEL COMPANY
(Indiana Harbor Works)

-and-

UNITED STEELWORKERS OF AMERICA
CIO

ARBITRATION AWARD
Grievance Case Nos. 1-D-36
1-D-38
Discipline for Work
Stoppage

PETER M. KELLIHER
Arbitrator

APPEARANCES:

FOR THE COMPANY:

- MR. WILLIAM F. PRICE, Attorney
- MR. HENRY M. THULLEN, Attorney
- MR. W. L. RYAN, Assistant Superintendent Labor Relations
- MR. JAMES F. PETERS, Superintendent of Blast Furnaces
- MR. FRANK FRAZEKAS, Assistant Foreman, Plant 2
- MR. STANLEY HAYDEN, General Mechanical Foreman
- MR. CHARLES FRAME, Mechanical Foreman, Plant 2 Blast Furnace
- MR. LEROY MITCHELL, Divisional Superintendent, Labor Relations Department
- MR. GEORGE S. SWOPE, Assistant to Manager, Industrial Relations Department
- MR. RICHARD J. NELSON, Industrial Relations Department

FOR THE UNION:

- MR. JOSEPH B. JENESKE, International Representative
- MR. WILLIAM MOWELL, Grievance Committee
- MR. ARCHIE BREEN, Aggrieved

STATEMENT

The Parties were unable to satisfactorily adjust certain grievances and accordingly determined upon arbitration as a means of final settlement. The Director of Federal Mediation and Conciliation Service, upon the joint request of the Parties, appointed PETER M. KELLIHER to serve as Arbitrator.

Pursuant to notice, a hearing was held at INDIANA HARBOR, INDIANA on August 20, 1953. At this hearing, 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. Both Parties submitted post-hearing briefs. A full transcript of the proceedings was taken.

THE ISSUE

Both Grievances read as follows:

"The following employee was reprimanded and disciplined. He did not take part in, authorize, instigate, cause, aid

or sanction in any strike, work stoppage, sit down, stay-in, slowdown or other interruption or impeding of work.

Relief Sought.

Reprimand and discipline letter should be removed from his personal record and lost time paid."

DISCUSSION and DECISION

The evidence is that the Grievants were assigned jobs on the day in question but at 3:15 A.M. they were still in a group talking. (T. pp 23 & 24) They were again told to return to work after approximately another twenty (20) minutes as they still were not working. They had performed no work between 8:00 A.M. and 9:30 A.M.

Mr. Breen in his testimony directly admits that he refused to go to work when ordered to do so. His testimony is as follows:

"Then when they come around telling us to go to work, I said, no, I wouldn't go to work until my buddies did;" (T. p. 59 & 60)

The evidence likewise shows that Mr. Kisfalusi failed to go to work despite repeated orders to do so.

The Arbitrator has no alternative but to conclude that the Grievants did participate in the work stoppage of December 12, 1952 and the Company did not, therefore, violate the Agreement by imposing discipline upon the Grievants for their action.

Mr. Breen denies that he told the General Foreman, "If you ever put anybody on my job I'll burn your ---." (T. p. 69) The evidence does show that Mr. Hayden, General Foreman, immediately reported this occurrence to his Superior. (T. p. 81) The Grievant claims that he merely stated: "You are the most contrariest man I ever seen." (T. p. 60) The record shows that Mr. Breen received a "DISCIPLINE STATEMENT" dated December 16, 1952, reading in part as follows:

"Outline of Violation:

When instructed to perform your job on Friday, December 12, 1952, you became threatening and used abusive and profane language to the supervisor in refusing to work as directed." (Appendix A-Peters, also see T. p. 39)

If the Grievant in fact merely referred to the General Foreman "as the most contrariest man he'd ever seen," the Grievant would have brought this fact to the attention of the Company and to his Union Representative at the earliest possible time. The Grievant was directly advised by the "DISCIPLINE STATEMENT" that he became "threatening" and "used abusive and profane language". The statement alleged in the General Foreman's testimony does express threatening, abusive and profane language while the milder expression, that Mr. Breen admits making, certainly could not be so characterized. The accusation of "threatening" a Supervisor is certainly more serious than the use of "abusive and profane language."

The record does not show that the Grievant or the Union Representative throughout any stage of the Grievance Procedure denied that Mr. Breen "became threatening". The additional discipline imposed upon Mr. Breen was entirely proper.

AWARD

The Grievances are denied.

/s/ Peter M. Kelliher
PETER M. KELLIHER

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Dated at Chicago, Illinois
this 3rd. day of February, 1954