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IN THE MATTER OF ARBITRATION BETWEEN:

THE INLAND STEEL COMPANY (INDIANA HARBOR WORKS) EAST CHICAGO, INDIANA

and

UNITED STEELWORKERS OF AMERICA, CIO, LOCAL 1010

OPINION AND AWARD ON GRIEVANCES NO'S. 17-D-67; 17-D-68; 17-D-69 and 17-D-70, Tin Plate

March 27, 1954

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Hearing in the Conference Room at the Indiana Harbor Works of the Company, East Chicago, Indiana, on February 25, 1954.

ARBITRATOR: Clarence M. Updegraff, appointed by mutual agreement of the parties.

APPEARANCES:

FOR THE COMPANY:

W. T. Hensey, Jr., Ass't Sup't., Labor Relations
R. J. Royal, Divisional Superv'r, Labor Relations
G. Platisha, Black Plate General Foreman

FOR THE UNION:

Joseph B. Jeneske, Internat'l Repr.
Walter Szpiech, Grievance Committeem

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All agreed steps perliminary to arbitration as contracted by the parties having been observed, waived or modified by mutual agreement, a hearing was held in the Conference Room of the Company at the Indiana Harbor Plant in East Chicago, Indiana, on February 25, 1954, at which written and oral evidence and arguments were received and heard. By mutual agreement the parties waived filing of post-hearing briefs and submitted the question in dispute to the arbitrator on the basis of matters presented at the hearing and the transcript there made.

THE ISSUE

The union contends that the company improperly failed to observe its contractual obligations as set forth in the current labor agreement between the parties, Article VI, Section 11, and Article VII, Section 6, when it failed on several turns, July 27, July 28 and July 31, 1953, to promote certain men to fill temporary vacancies and, instead of doing so, held over men from previous turns to work on an over-time basis.

The employer corporation by its spokesmen, contends that the provisions of the contract relied on by the union expressly exclude the present situation since they apply only in situations "when a force has been scheduled." Management asserts that in the present instance, the work in question was not forseeable in time to be scheduled, hence was not scheduled and therefore, was work uncovered by the terms of the contract relied on by the union representatives.

DISCUSSION OF EVIDENCE, CONTENTIONS OF THE PARTIES AND CONCLUSIONS

It was stated by company spokesmen and not controverted that in the latter part of July 1953, a considerable number of employees normally active in the area here in question were

on vacation, and that a substantial number of those remaining on duty had been upgraded to the jobs which they were scheduled to fill on the days in question, July 27, to July 31, 1953. (Transcript p. 49.) Apparently most of the rolling load is carried by the Number Five Temper Mill which commonly operates about twenty (20) turns of eight (8) hours each per week. This allows about one down turn each week. A single stand mill, either Number One or Number Two, ordinarily operates some five (5) turns per week. On the Sunday prior to the incidents giving rise to this dispute, specifically July 26, 1953, the Number Five Temper Mill did not operate on one of the scheduled turns. Hence, when operations started on the following Monday, the material which would have been ready normally for the subsequent units in the process, the Wean Trimmer, the Hallden Shear and Number Two Electrolytic Line was in abnormally short supply. This necessitated unforseen and hence, previous unscheduled operations of Single Stand Mills during that week. (Transcript pages 44-47.)

It is to be emphasized that this is not a situation in which the approaching need to schedule extra operations of the Single Stand Mills had been neglectfully omitted. The previously posted scheduling for the week beginning on Monday, July 27, 1953, included some additional turns beyond the five (5) per week normally scheduled on the Single Stand Mills to meet previously developing shortage of production. When the turn was unexpectedly lost on the Tandem Mill, Sunday July 26, 1953, with the consequential resulting shortage of materials for subsequent operations, immediate arrangements were made by management for additional unscheduled operations of the Single Stand Mills during the week in question.

The portions of the contract relied upon by the union read as follows:

> "Article VI, Section 11. In the exercise of its rights to determine the size and duties of its crews, it shall be Company policy to schedule forces adequate for the performance of the work to be done. When a force has been scheduled and a scheduled employee is absent from a scheduled turn for any reason, the Company shall fill such a vacancy in the schedule in accordance with the provisions of Article VII, and if the schedule cannot be so filled, the Company shall call out a replacement or hold over another employee, unless the work to be accomplished by or assigned to the short crew can be modified so that it will be within the capacity of such short crew.
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> "Article VII, Section 6. Filling of Vacancies and Stepbacks Within a Sequence. (a) Promotions. Temporary vacancies shall be filled by the employee on the turn and within the immediate supervisory group in which such vacancy occurs in accordance with the provisions of this Article, except that, where vacancy is on the lowest job in the sequence, it may be filled by the employee in the labor pool group (including available employees in single job promotional sequences) most conveniently available in accordance with their seniority standing. Temporary vacancies which are known to extend over the next work week or longer, or those where no definite information as to the duration of the vacancy has been furnished to the department management by the time schedules for the next work week are posted, shall be filled by the employee within the sequence who is entitled to the vacancy under the provisions of this Article....."

The above quoted sections of the contract between the parties seems to be clear and unambiguous in their bearing upon the present problem. It will be noted that in the first sentence of Section 11, it is recited that the Company policy shall be to "schedule forces adequate for the performance of the work to be done." This must necessarily mean the work reasonably forseeable at the time when the schedule is posted. The present situation does not disclose lack of good faith on the part of management. If there had been a forseeable need for the extra unscheduled operations of the Single Stand Mills in the week in question, and the company had failed to schedule the same, it might be inferred that the omission was intended and calculated to permit the company to call in or make up a crew for the extra

operations without observing the contract rules upon such matter. There is no evidence to sustain the inference that such was the fact. As previously recited, the company had already scheduled extra turns of the Single Stand Mills for the week in question because they were running behind in production. With that situation confronting it, management unexpectedly lost a turn of the Tandem Mill on Sunday July 26, 1953. This brought about a shortage which would have stopped production on subsequent operations on the material involved unless immediate steps were taken to arrange for extra operation of the Single Stand Mills during that week. The company arranged this by holding over some men from previous turns and paying them on the overtime, time and one-half, basis throughout the turns and by calling out some men who had not been scheduled to work on the turns.

It is to be noted that by the terms of Section 11 of Article VI, of the contract, the company is bound to fill vacancies caused by absenteeism in accordance with the provisions of Article VII. But this agreement applies only "when a force has been scheduled and a scheduled employee is absent." In the present instance, the forces in dispute had not been scheduled and no changes of work for the turns were required by absenteeism. Hence, this provision of the contract is not within the condition under which the company is required by agreement to fill any unexpected vacancy consistently with Article VII. Turning to Article VII, and particularly to Section 6, thereof, it will be noted that in general this part of the agreement has reference to the filling of temporary vacancies by employees "on the turn and within the immediate supervisory group in which such vacancy occurs." Literally, it is difficult to conceive of the jobs here in question as "vacancies." During the time when the work in question was not scheduled, certainly there were no "vacancies." After the extra turns were recognized to be necessary and the emergency crews made up, they worked as originally organized and arranged by management. There were no "vacancies" among the men planned for the work.

The position taken by the union in this matter would be entirely correct if the extra operations of the Single Stand Mills had been scheduled and absenteeism required the filling of certain jobs. In such case, under Article VII, Section 6, the employees on the turn would have been entitled to be upgraded to the higher rated jobs which they could fill (provided they had not waived the same) and would be entitled to work and be paid on such basis. This would be true even though the volume of production might suffer because of the fact of their comparative inexperience. This arbitrator feels that the same should be held if the company had in bad faith failed to schedule adequate forces for the performance of forseeable work to be done. As indicated above, however, the situation here arose from an unforseeable emergency brought about by the loss of production on the Tandem Mill on Sunday July 26, 1953. The extra turns on the Single Stand Mills were suddenly necessitated. The company moved to supply the necessary men without scheduling the same. This apparently was necessary to avoid shutting down the material operations which follow production on the mills here in question, possibly with the result of considerable loss of earnings of other employees as well as the loss of production by the company.

The claim of good faith by the company is fortified by the fact that the course which it followed could scarcely have been dictated by a desired to save production costs or to skimp on total wage payments since the men held over from prior shifts were in each case, necessarily paid time and one half for the work on the extra turns for which they were held. The company suggests that men who claim they should have been upgraded may possibly have earned more in their own regular classifications on the basis of the incentive earnings paid for the productions of the turns, than they would have earned had they been upgraded and as a consequence of inexperience produced less, and hence earned less incentive pay. This however, is speculative and is in no sense the basis of this decision.

THE AWARD

It is awarded that Article VI, Section 11, of the contract between the parties requires the employer to fill vacancies consistently with Article VII, only after "a force has been scheduled." It is further awarded that in the present situation the need for the force in question had arisen as an unforseeable emergency and for that reason had not been scheduled, and the company did not act in bad faith in failing to schedule such force. It is further awarded that the grievances here concerned must be disallowed.

/s/ Clarence Updegraff

Iowa City, Iowa

March 27, 1954.