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INLAND STEEL COMPANY )
Indiana Harbor Works ) Grievance No. 17-E-41
) Docket No. IH-33-33-6/20/56
and ) Arbitration No. 184
)
UNITED STEELWORKERS OF AMERICA ) Opinion and Award
Local Union 1010 )

Appearances:

For the Company:

William F. Price, Attorney
William L. Ryan, Assistant Superintendent, Labor Relations
John I. Herlihy, Superintendent, Engineering Department

For the Union:

Cecil Clifton, International Representative
Fred Gardner, Chairman, Grievance Committee
Joseph Wolanin, Secretary, Grievance Committee

Prior to October 14, 1955 the Wean Slitter and Shear in the Tin Mill was used for processing three types of steel which have been identified at the hearing as "Tin Mill Product". A standard operating crew of Operator, Piler and Feeder were compensated under Wage Incentive Plan No. 78-0701. On October 14, 1955 cold rolled electrical steel (which we shall refer to herein, as "Electrical Steel") was added to the materials processed by this Slitter and Shear. This material had previously been processed in the Cold Strip Mill. It did not differ in width from the average dimensions of Tin Mill Product, but it did differ in thickness and hardness and handling qualities. Employees in another department, the Cold Strip Mill previously processed electrical steel under an incentive plan, but the characteristics of that plan and the earnings of the employees thereunder have not been placed in the record of this proceeding.

When the new material was introduced the employees were compensated by payment of occupational base hourly rates. Some operating difficulties were experienced and mechanical improvements were made. An incentive plan was developed (No. 78-0702) by the Company applicable to electrical steel only and was installed on January 16, 1956 with retroactive effect to October 14, 1955. The Union filed Grievance No. 17-E-41 directed to that plan on April 16, 1956.

The grievance reads as follows:

> "On January 16, 1956, Incentive Rate, File No. 78-0702, was installed on the Wean Slitter and Shear. In the ensuing months this rate has proven inequitable in relation to previous earnings, job requirements and other incentives in the department."

The relief requested in the grievance notice is:

"Complete revision of the rate to bring it in line with the above mentioned shortcomings."

There is some difficulty in stating with precision the direction of this grievance. In the original grievance notice the complaint was directed at the inequitability of Incentive Plan No. 78-0702 (on electrical steel). The Union position was similar in its pre-hearing brief, but at the hearing there was some supplementation and modification. At that time it was stated that No. 78-0701, the plan which provided incentive rates for Tin Mill Products, became inappropriate when the introduction of electrical steel created a new or changed condition resulting from changes in materials processed; also that No. 78-0701 and No. 78-0702 did not provide equitable incentive earnings in relation to previous job requirements and previous incentive earnings. Average hourly earnings were requested and the Arbitrator was asked to require compensation under a plan that would yield to this crew no less than the incentive earnings they enjoyed before the introduction of the electrical steel.

Basically, the Union argues that it was improper under the Agreement to develop an incentive plan referable only to the new material processed; and that when the introduction of the new material made the Tin Mill Products plan inappropriate the Company should have developed a plan applicable to all the types of material processed which would have been equitable in relation to the previous job requirements and previous incentive earnings of the members of the crew.

Examination of Article V Section 5 brings to light no explicit language supporting the Union's claim that when new material is introduced the Company may not develop an incentive plan relating to jobs having to do with the working of that material exclusively. The Company maintains that it may take one of several courses when new material is introduced for processing. Thus, if the product-mix is believed to be relatively stable, the Company might develop a plan embracing all materials processed. If the production of the several materials is not expected to be in constant and steady proportions, however, the Company asserts that it is difficult if not impossible to develop a satisfactory incentive rate. The statement of the Company that many examples of both types of plans exist in the plant under the Agreement was not contradicted. In some instances when the anticipations as to the characteristics of the product-mix justify it, the Company develops a revision of the existing plan to account for incentive effort in the processing of the newly introduced material; in other cases it develops a wholly new plan.

The authority of the Company to develop and install incentives stems from Article V Section 5. The initial statement in the section, which declares Company policy, is couched in terms of practicability. Practicability and the "opinion of the Company" are again referred to in the second sentence in connection with the substitution of incentive rates for hourly rates. There is nothing in this language that inhibits the installation of plans providing incentive earnings either on the initiative of the Company or on demand of the Union on a portion of the total job duties of an employee or a crew measured or identified by the characteristics of the material processed. When this is done it is only productive of confusion to say that newly introduced material was or was not "previously incentivized" as was done in this case.

Of course a plan under Section 5 of Article V of the Agreement must compensate for the incentive effort of men in their jobs, as the Union very forcefully and properly points out; but I am not aware of any prohibitions which the parties have declared against multiple plans applying to various parts or aspects of a single job, essentially measuring or identifying what the employee does in the course of his duties, which may be done by reference to the characteristics of the materials he helps to produce.

The Union argues in this case, however, that it is the Company's practice to create new plans for a portion of the total job and thereby to lower previous incentive earnings of the employees and to avoid the payment of average hourly earnings. I find no evidence whatsoever in the development of Plan No. 78-0702 of any improper motivation for the purpose of avoiding or evading the intentions of the parties; furthermore, I express no opinion of the merits of the charge as it might apply to other situations not before me for adjudication. Suffice it to say that if such a practice should be followed in the development of incentive plans a serious situation would be presented. The Agreement invests the Company with broad latitude in the development of incentive plans. The satisfactory operation of such plans depends not only upon their conformity to the tests of equitability in the Agreement, but even more importantly upon the good faith of the parties. The Company must exercise great caution that confidence is not undermined; the Union should not lightly or carelessly make good faith an issue in an ordinary dispute over the equitability or appropriateness of a particular plan.

The new incentive plan applicable to electrical steel must meet the tests of Marginal Paragraph 40. The Company position is that the plan provides earnings opportunity for electrical steel equitable in relation to the earnings opportunity under the older plan for tin mill products run on the same equipment by the same crew in the same department. The Company points out, quite correctly, that a similar test of equitability was made in Arbitration No. 171 although under somewhat different circumstances. It would be difficult to choose a more apt comparison for incentive earnings purposes than the operation of the same equipment provided, however, appropriate allowances are made for the differences in the handling for the new material.

In the instant case the plan was based upon a time study undertaken on November 22, 1955, about a month after the introduction of the electrical steel, which included determinations of the effective operating speeds. On several of the occurrences, the effective operating speed of 1200 feet per minute was exceeded in substantial degree. The Company found no important difference in work load or job requirements in the processing of electrical steel and tin mill products by the identical crews using identical equipment but allowances were made, as appropriate, for the characteristics of the electrical steel which made it more difficult and slower to handle and run than tin plate products.

The Company proceeded to develop the plan with reference to the average incentive earnings of the crew prior to the introduction of the new material under Incentive Plan No. 78-0701 dealing with tin mill products. As is customary, the crew incentive rate per minute based on such previous

incentive earnings was applied to the standard allowed time for handling and running of the material for the computation of the incentive rates for the several occupations.

No serious objection to the procedure employed in the development of the plan is contained in the record of this case.

The weighted average hourly incentive earnings under the developed plan, both prior to and after the filing of the grievance were significantly below those of the same crew on tin mill products before and after the installation of the plan. For the pay periods ending January 29, 1956 to April 22, 1956, shortly after the grievance was filed, the difference was $.449 for the Operator occupation; for the pay periods ending May 6, 1956 to July 1, 1956 when the running of electrical steel through the Wean Slitter and Shear in this department was discontinued, it was $.442. This is explained by the Company by a failure of the crew to meet the productive performance shown on the time study of November 22, 1955, for whatever reason, despite the fact that mechanical and technological improvements were introduced to facilitate the work on electrical steel subsequent to the date of the time study. An increase in the tonnage of electrical steel processed per turn was attained in April and May of 1956 but then, in June, it fell considerably below that processed in January. The record does not contain facts which would enable me to account for the failure to meet expected incentive earnings; on the other hand I have been presented with no basis for finding that the plan, in its development was faulty.

The Union urged at several times at the hearing that the appropriate comparison was not with the previous incentive earnings of this crew on the Wean Slitter and Shear in the Tin Mill for processing tin mill products, but with the incentive earnings for the processing of electrical steel in the Cold Strip Department. This is answered by the statement that the Cold Strip Department has not been shown to be a "like department" under Article V Section 5. The Industrial Engineer who testified on the development of the plan, moreover, indicated that there are material differences between the equipment used and the conditions obtaining in the Cold Strip Mill and those in the Tin Mill which would make a proper comparison difficult if not impossible. This evidence was uncontradicted. Accordingly the incentive plan in the Tin Mill for electrical steel was developed on the foundations of the incentive plan in that mill for tin mill products.

The Union claimed that by reason of the introduction of the new material, the previously existing plan applicable to the processing of tin mill products (No. 78-0701) become inappropriate. This claim is at variance with the grievance which addresses itself exclusively to the inequitability of Incentive Plan No. 78-0702 dealing with electrical steel. It introduces a new theory for the granting of the grievance apparently not previously advanced in the steps of the grievance machinery. In previous cases it has been found necessary to reject new theories of a case and facts basic to a decision not advanced by the Company in the grievance phase of the procedure. The rule is equally applicable to the Union. It has two major purposes. First, by illuminating the theories and facts relied upon by a party it enables the other to give full consideration and weight to the strengths and weaknesses of the respective positions and to determine whether on the merits the dispute should be resolved short of arbitration. Thus, the rule promotes the effective operation of the grievance machinery. Secondly, it results in

narrowing and framing the real issues to be arbitrated and in enabling each party to be prepared fully in presenting its case to the Arbitrator. Here the merit of the rule is that it makes for more efficient and effective arbitration. When the exchange of arguments and basic elements of evidence is not attained in pre-arbitration sessions the arbitration process becomes cluttered and clogged with disputes over factual matters and computations which, under any properly conducted management-labor relationship should be stipulated and agreed upon in advance. Further, this failure results in charges of bad faith detrimental to the basic relationship. It means that the other party comes to the hearing not adequately prepared to meet these contentions and new facts and, consequently, the arbitrator is presented with confusion rather than enlightenment. It prolongs the hearings and generally does a disservice to the cause of good arbitration. Indeed, in this very case, there was a great deal of needless bickering over data, facts and computations that could easily have been avoided.

In any event, there is no persuasive showing here that Incentive Plan No. 78-0701 became inappropriate in relation to the processing of tin mill products which is the only type of product it covers. Clearly, the Company, with the introduction of electrical steel, might have put out a revision or a supplement to Plan No. 78-0701 which established separate incentive rates on electrical steel if that material was not to be processed in such constant ratios to tin mill products as to make it "practicable" (Marginal Paragraph No. 35) to develop a plan for a constant product-mix. The fact that its judgment dictated a separate plan is not fatal to Plan No. 78-0702.

I find that the incentive earnings are equitable in relation to other earnings in the department.

AWARD

The grievance is denied.

Peter Seitz,
Assistant Permanent Arbitrator

Dated: July 19, 1957