

INLAND STEEL COMPANY

and

UNITED STEELWORKERS OF AMERICA
Local Union 1010

Grievance No. 12-F-60
Docket No. IH-285-278-3/17/58
Arbitration No. 278

Opinion and Award

Appearances:

For the Company:

W. A. Dillon, Assistant Superintendent, Labor Relations
L. R. Mitchell, Divisional Supervisor, Labor Relations
J. Borbely, Divisional Supervisor, Labor Relations

For the Union:

Cecil Clifton, International Representative
C. C. Crawford, Grievance Committee, Galvanizing Department
Fred A. Gardner, Chairman, Grievance Committee

Grievant, R. Fentress, claims overtime rates for work on two days which he asserts to be the sixth and seventh days of a seven-consecutive-day period, under Article VI, Section 2 (paragraph 103). The days in question are Wednesday and Thursday, October 2 and 3, 1957.

The Company resists this claim on the ground that the seven-consecutive-day period during which these two turns fell began at 4:00 p.m. on Sunday, September 29, making the days the fourth and fifth, not the sixth and seventh. It also maintains as a collateral issue that even under the Union's theory that the seven-consecutive-day period began at 8:00 a.m. on Friday, September 27, it would have ended prior to the time this grievant started work on Thursday, October 3 at 4:00 p.m. by virtue of the change of shifts and the proviso in paragraph 103 that under such circumstances the period may be shortened from the full 168 hours to as little as 152 hours depending upon the change.

This collateral issue was analyzed with some care by Arbitrator Ralph Seward in American Steel and Wire Company Case No. A-289. The contract provision in that case was identical with that before us; in fact, it served as the pattern for paragraph 103 in our Agreement. Mr. Seward's description of the history of the provision, his analysis, and his conclusion are all very convincing, and for the reasons he states it must be found that the 168-hour period has been reduced here so as to put the work on Thursday, October 3, starting at 4:00 p.m., outside the seven-day period for overtime purposes. This conclusion is reached because paragraph 103 plainly stipulates as a restricting condition on the right to receive overtime pay for work on the sixth or seventh workday of a seven-consecutive-day period that the 168 consecutive hours may become 152 consecutive hours "depending on the change in the shift," without restricting such shift changes to those made after five days of work, as the Union urges. In the period under consideration in this case, there was

a shift change between the first and second days, and starting the count of hours at the time work started for the grievant on Friday, September 27 at 8:00 a.m., 152 hours had expired before he started work at 4:00 p.m. on October 3.

The main question raised by the Company relates to the time when for overtime purposes under paragraph 103 the seven-consecutive-day period commences. The Company argues that such a period can start only when the preceding seven-consecutive-day period ends, relying principally on Article VI, Section 1 C which defines the normal work pattern as follows:

"The normal work pattern shall be five (5) consecutive workdays beginning on the first day of any 7-consecutive-day period. The 7-consecutive-day period is a period of one hundred and sixty-eight (168) consecutive hours and may begin on any day of the calendar week and extend into the next calendar week. On shift changes, the one hundred and sixty-eight (168) consecutive hours may become one hundred and fifty-two (152) consecutive hours depending upon the change in the shift."

It is noted, however, that Section 1 contains this language:

"This Section defines the normal hours of work and shall not be construed as a guarantee of hours of work per day or per week. This Section shall not be considered as any basis for the calculation or payment of overtime, which is covered solely by Section 2 -- Overtime -- Holidays."

Section 2, which the above quotation says is the Section by which the payment of overtime is solely covered, stipulates that

"(1) Overtime at the rate of one and one-half times the regular rate of pay shall be paid for:

.....

"(d) Hours worked on the sixth or seventh workday of a 7-consecutive-day period during which the first five (5) days were worked, whether or not all of such days fall within the same payroll week, except when worked pursuant to schedules mutually agreed to as provided for in Subsection D of Section 1 -- Hours of Work; provided, however, that no overtime will be due under such circumstances unless the employee shall notify his foreman of a claim for overtime within a period of one week after such sixth or seventh day is worked; and provided further

that on shift changes the 7-consecutive-day period of one hundred and sixty-eight (168) consecutive hours may become one hundred and fifty-two (152) consecutive hours depending upon the change in the shift. For the purposes of this Subsection C (1) (d) all working schedules now normally used in any department of any plant shall be deemed to have been approved by the grievance committeeman of the department involved. Such approval may be withdrawn by the grievance committeeman of the department involved by giving sixty (60) days' prior written notice thereof to the Company."

A seven-consecutive-day period may start at any time, for the purposes of this provision. Non-duplication of overtime rates is stipulated by paragraph 116. Paragraph 103 does not say that the period will not commence until a previous period has ended, as the Company contends it should be construed to say. There is nothing in this Section which precludes an employee from starting the seven-consecutive-day period immediately after his last day off duty, at the hour he starts work, and this is precisely what the grievant did here, and what the Union maintains he properly did under the contract provision.

AWARD

This grievance is upheld to the extent of granting overtime pay for the work performed by the grievant on ~~Tuesday~~^{Wednesday}, October 2, 1957, but it is denied with respect to his overtime claim for the hours worked on Thursday, October 3, 1957.

Dated: September 12, 1958

David L. Cole
Permanent Arbitrator