

INLAND STEEL COMPANY	)	
	)	Grievance No. 17-F-18
and	)	Docket No. IH 306-298-4/24/58
	)	Arbitration No. 299
UNITED STEELWORKERS OF AMERICA	)	
Local Union No. 1010	)	Opinion and Award

Appearances:

For the Union:

Cecil Clifton, International Representative  
 Fred A. Gardner, Chairman, Grievance Committee  
 Fred Jenkins, Grievance Committeeman

For the Company:

W. A. Dillon, Assistant Superintendent, Labor Relations  
 J. L. Federoff, Divisional Supervisor, Labor Relations  
 W. W. Kechich, General Foreman, Warehouse and Shipping

The question presented for decision is whether Merch, a Warehouse Tractor Operator, not scheduled for work on December 23, 1957 is entitled, nevertheless, to eight hours pay because part of his duties were performed by an Assorting Room Tractor Operator in another seniority sequence.

Among the Warehouse Tractor Operator's duties is the removal of lifts of steel from the aisles between Reckoning Tables to storage and bundling areas some distance therefrom. These lifts, customarily, are removed as they accumulate in the aisles. Normally the Warehouse Tractor Operator is scheduled for work whenever Reckoners are scheduled inasmuch as removal of the lifts is a necessary service to that occupation.

Through inadvertence, conceded by the Company, Merch was not scheduled for work on December 23, 1957 when three Reckoners had been scheduled. The records of the Company, according to the Company witnesses, indicate that only 20 lifts were produced for movement to storage or bundling on December 23, 1957. What actually transpired in Merch's absence is not known with certainty, but the Company witnesses made what they regarded as reasonable assumptions from the facts. According to the Company's version, it would appear that as the lifts accumulated in the aisles between Reckoning Tables they were moved about 15 feet across the aisles to take them out of the operating area of the Reckoners. The aisles themselves are about 20 feet wide and the lifts are 30 inches wide. The movement

of the lifts across the aisles "must have been" effected by another tractor in the area, says the Company, operated by an Assorting Room Tractor Operator. The Assorting Room Tractor Operator, a witness at the hearing, who, according to Company records, was scheduled for that shift, however, had no positive recollection of what took place on December 23, 1957 in regard to the movement of the 20 lifts. His recollection may well have been clouded by the fact that in "emergencies" or whenever the Warehouse Tractor Operator was not immediately available for the performance of his regular duty of removing the lifts to the more distant storage or bundling areas, it was customary for him to move them a short distance across the aisle, out of the way of the Reckoners at the table and to stack them to await their removal to the more distant storage or bundling areas by the Warehouse Tractor Operator when he should become available. The Company believes, but cannot prove, that this is what occurred on that day. The Company has speculated and assumed that the lifts, after having been moved across the aisles and stacked were moved to the appropriate distant areas on a subsequent shift by a Warehouse Tractor Operator. The Union, on the other hand, although insisting that the Assorting Room Tractor Operator did Warehouse Tractor work did not present any witness who could testify of his own knowledge precisely what it was that the Assorting Room Tractor Operator did that trespassed on the job duties of the Warehouse Tractor Operator. Indeed, the principal Union witness testified that there was insufficient room in the aisles between the reckoning tables for the tractor movement which the Company asserts "must have taken place". In sum, neither the Company nor the Union have presented clear evidence as to the events that took place on the day in question.

The absence of credible evidence as to what the Assorting Room Tractor Operator did which was within the normal duties of the Warehouse Tractor Operator compels a decision unfavorable to the claimant here. Absent a showing that the Assorting Room Tractor Operator was assigned work inconsistent with or violative of the seniority or other contract rights of the grievant the grievance must be denied. This disposition of the grievance is made without ruling in any way on the legal position and the interpretation of the Agreement contended for by the Union. The Arbitrator's responsibility is to apply the provisions of the Agreement to facts, either conceded or proved. He is not privileged to speculate as to what took place or to declare the impact of the Agreement to facts assumed by the parties or either of them which are neither conceded nor proved.

AWARD

The grievance is denied.

Approved:

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Peter Seitz,  
Assistant Permanent Arbitrator

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David L. Cole,  
Permanent Arbitrator  
Dated: January 9, 1959