INLAND STEEL COMPANY)
) Grievance No. 5-F-43
and) Docket No. IH 357-348-8/6/58
) Arbitration No. 314
UNITED STEELWORKERS OF AMERICA)
Local Union No. 1010) Opinion and Award

Appearances:

For the Union:

Cecil Clifton, International Representative
Fred Gardner, Chairman, Grievance Committee
Joseph Wolanin, Secretary, Grievance Committee
L. Arrequin, Grievance Committeeman

For the Company:

L. E. Davidson, Assistant Superintendent, Labor Relations
R. H. Werntz, Divisional Supervisor, Labor Relations
J. E. Bolinger, Assistant Crane Foreman, No. 2 Open Hearth

The employment status of the grievant, Clifton Madison, was terminated by the Company, effective May 9, 1958 pursuant to Article VII, Section 11 (c). The Union claims that the action of the Company is without justification and that the he should be compensated for all time lost due to the Company's refusal to reinstate him. Article VII, Section 11 (c) (Marginal Paragraphs 163 and 166) provides that continuity of service and the employment relationship shall be broken and terminated when

> "an employee is absent from work for a full pay period without notifying the Company, except in the case of an emergency or other justifiable reasons."

The grievant was absent from work at the No. 2 Open Hearth Department from April 9, 1958 through May 9, 1958. According to the Company it had no knowledge or information of the grievant's whereabouts or the reasons for his absence during the entire period referred to; and that in the latter part of this period it attempted to communicate with him by calling the telephone number in its files furnished by the grievant, but without success. It was not until May 13, 1958, according to the Company, that it heard from the grievant for the first time after his last day of work on April 8, 1958.

The grievant asserts that he did notify the Company as required in Paragraph 166. The circumstances relevant to a decision in the case are as follows: The grievant was a Craneman in the No. 2 Open Hearth Department, who, because of reduced operations, had been demoted to the Labor Pool. For personal reasons he moved from the premises at which he had informed the Company he resided, and went to live with his sister who had a full time job. He was absent from work because of illness on April 9, April 10 and April 11, 1958 but did not call in to inform the Company of his absence. (The action of the Company, insofar as the presentation at the arbitration hearing is concerned, did not rely on this failure as a basis for the personnel action taken.) On April 10 he was ill and went for treatment to a physician in East Chicago. At about five o'clock on the morning of April 12 while preparing to report for the day shift he experienced a disabling attack of rheumatic arthritis. He did not ask his sister to report his absence before she departed for work. At the time there was no telephone on the premises. Some time before noon on that day the grievant called through the window and asked a stranger standing nearby to come up to his room. This individual behaved in a friendly manner, and grievant requested him to telephone the Labor Office of the No. 2 Open Hearth Department and inform it that he was ill and would communicate with it when he would be ready to return to work. He put the telephone number of the Labor Office and his own name on a slip of paper, gave it to this man, whose name is Walker, handed him $1.00, and told him to keep the change.

Mr. Walker testified that he made the call from a barber-shop some distance from the premises where the grievant was then residing, about noon, and that after being transferred to someone who stated that he was talking from the Labor Office, he gave him the information he had been requested to transmit. He was not requested by the grievant to obtain, nor did he ask for, the name of the individual at the other end of the line.

The Company asserts its files contain no record of such a call and it denied that it was made. In this connection it presented testimony as to the complexity of the scheduling problems it faced in connection with its Craneman force. For some time, in order to fill vacancies in that occupation, as they occurred, it had scheduled demoted Cranemen as Learner Cranemen and paid them accordingly. The grievant had been so scheduled, but not for the week in which he last worked. Further, it was testified that by a notice dated February 16, 1956, emphasizing the scheduling needs of the department, No. 2 Open Hearth Cranemen were told of a method that "must be used to report off from work for any reason". There followed in this instruction the plant extensions and home numbers of named individuals to be contacted, the order in which they should be called if some could not be reached and it was stated "It is your responsibility to get the name of the person you have reported off to and bring it to the crane office".

Again, according to the testimony, the instruction after having been posted since 1956, was redistributed, together with another instruction, dated February 28, 1958. This latter instruction referred to the installation of dial phones and gave the new telephone numbers of the individuals to be contacted for the purpose of reporting absences. At the bottom of the sheet, Cranemen were requested to fill in, tear off and furnish to the Company one executed form calling for the Craneman's name, check number, address and telephone number. It is fair to assume that this was done by the grievant because the Company later sought to communicate with him at his new dial phone number.

Although not scheduled as a Craneman for the last week he worked, on two of four previous occasions when the grievant was scheduled for the Labor Pool, and was absent, he reported off to the Craneman's office, and, on two, to the Labor Office. It is evident that he was fully cognizant of the necessity of keeping the Craneman's Office informed of his non-availability to fill Craneman's jobs. This is borne out by his evidence as well as the Company's.

According to the grievant, at all times during his absence, he believed and acted on the assumption that the Company had been notified and was aware of the reasons for his absence through the medium of Mr. Walker's telephone call. He refers to the fact that his brother had to deliver a note about his illness to the Paymaster in order to pick up one of his pay checks. This, of course, is not the normal or prescribed manner for notifying the Company of an absence.

The first issue to be met is one of fact, namely, was the Company actually notified by Mr. Walker of the grievant's disabling illness? The answer here necessarily turns on the credibility of Mr. Walker's testimony.

As to Mr. Walker, it is unnecessary to say much more than that he was a most unpersuasive and unimpressive witness who was unsure of the hour he made the call, the place at which the call was made, and he was wholly lacking in information as to whom he spoke with on the telephone excepting that it was his belief that it was a man in the Labor Office of the department in question. It should be added that at the arbitration table the Arbitrator and the Reporter found it most difficult to comprehend Mr. Walker's speech and his testimony.

The Company appears to argue that the absence of any record of a telephone call by Mr. Walker on behalf of the grievant demonstrates that it could not have taken place. On the other hand the Union argues that there have previously been instances of a failure on the part of Company personnel to record a reporting

of absence and that the fact that there is no notation of the call in the Company's records signifies nothing. Neither extreme position merits acceptance. I am persuaded that the Company placed considerable reliance on records with respect to the availability of such employees as the grievant for assignment to temporary vacancies; and although the possibility of a failure to record a phone call must be recognized, it is not likely that this would occur. A balance of possibilities suggests that if, indeed, Mr. Walker did carry out the telephone assignment, Mr. Walker may not have reached the right office, or if he did, he may not have been understood because he communicates so poorly. There is no reason to doubt, and I find a) that the grievant requested Mr. Walker to make the notification call and, b) that the notification was not communicated to the proper officials of the Company. This is not to say that Mr. Walker did not actually make a call - but if he did, he failed to convey his message to the proper quarters.

Section 11 of Article VI contains provisions the proper interpretation and application of which touch upon the rights not only of the employee involved and the Company, but the seniority rights of other employees, as well. The provisions must be administered with consideration for the seniority rights of other employees in the sequence. Thus, when an employee is absent /as was the grievant/ for a full pay period /he was absent for two pay periods/ without notifying the Company /i.e., conveying or communicating to the Company the facts concerning his absence and the reasons therefor/ the duty of the Company under the Agreement is plain. It must break the seniority and terminate the employment of the employee

> "except in the case of an emergency or other justifiable reasons"

Thus, the parties have agreed that an employee may not put the Company to the expense and administrative uncertainty and trouble of endeavoring to adjust schedules made necessary by the prolonged absence /full pay period/ without notification by an employee. Further, they agreed that junior employees are entitled to exercise their seniority to promote to jobs from which their seniors were absent for a full pay period without notification ("except in the case of an emergency or other justifiable reasons"). The Arbitrator expresses no views as to whether this provision is wise or harsh; suffice to say it is in the Agreement and is entitled to be given normal force and effect.

We now come to a discussion of whether the grievant has brought himself within the terms of the exception in Paragraph 166.

It was agreed by the representative of the Company at the hearing that it is difficult to conceive of an "emergency" that would extend over the full term of a pay period. It was also agreed by him, as a corollary, that if that were true, it is unlikely that the "other justifiable reasons" referred to need be only those of the nature or character of an "emergency". In other words, the parties did not limit or prescribe the varieties of reasons that might establish justification for failure to notify in the event of absence for a full pay period. Thus, as in a case like this, an employee who has failed to notify bears the burden of justifying his failure to do so. He would do this by showing "cause" and giving a reasonable explanation of failing to discharge his duty.

The grievant has not measured up to that standard and requirement here. First, although the Company took pains to be currently informed of his address and telephone number he moved his residential site without keeping the Company informed of where he could be reached. Secondly, he was absent on April 9th and 10th and did not report off or sick. While this fact is not dispositive in this inquiry, it does shed some light on his sense of responsibility. Third, on April 12, before his sister left for work, clearly, according to the testimony, he knew that he was not going to report for work and he nevertheless neglected to request her to telephone the Company. Fourth, later in the day, he asked that this be done for him by a stranger on whom he had no basis for relying, - a most imperfect and unlikely instrumentality to choose to perform duties which the Agreement requires to be performed by an employee of the Company. Fifth, he did not take the very basic and simple precaution of instructing Mr. Walker to get the name of the person being notified (or even notifying the individuals referred to in the Craneman bulletins which he had received and which should have guided his notification efforts even if he were temporarily assigned to the Labor Pool). Sixth, and lastly, although all of his steps were marked by this careless behavior and lack of consideration for the operating problems of the Company, in the remaining period (April 13 to May 13, 1958) he took no steps to make certain that his efforts to notify the Company, such as they were, had not miscarried.

All of these circumstances add up to the conclusion and the finding that the duty to notify referred to in Paragraph 166 were taken lightly and indifferently, although he must be presumed to have been aware of the serious consequences that might follow. Under those circumstances I cannot find that he had "justifiable reasons" for failing to notify as required.

Consideration has been given to the Union's argument based on "practice" but it is not regarded as sufficiently meritorious to affect the decision here.

AWARD

The grievance is denied.

Peter Seitz,
Assistant Permanent Arbitrator

Approved:

David L. Cole,
Permanent Arbitrator

Dated: March 31, 1949