FILLING OF TEMPORARY VACANCIES
OLD ART VII — SEC 6
NEW ART 13 — SEC 6

INLAND STEEL COMPANY

and

UNITED STEELWORKERS OF AMERICA
Local Union 1010

Grievance No. 10-F-36
Docket No. IH-374-365-9/25/58
Arbitration No. 332

Opinion and Award

Appearances:

For the Company:

L. E. Davidson, Assistant Superintendent, Labor Relations
M. S. Riffle, Divisional Supervisor, Labor Relations
G. R. Haller, General Foreman, Plant #1 Mills

For the Union:

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

J. Green, the grievant, prior to the issuance of Arbitration No. 167 held sequential rights in the 36" Rolling and Shearing Sequence in Plant #1 Mills. Following the issuance of that award he lost his sequential standing and was demoted to the labor pool. On the Thursday prior to the workweek beginning April 27, 1958, Green was scheduled in the occupation of Steel Tracer, the bottom job in the Heating and Recording Sequence of the Department, for April 30, May 1, 2 and 3. On May 1 the employee scheduled to work as Shear Helper (a higher rated occupation than Steel Tracer, the bottom job in another sequence) failed to report and failed to notify the Company thereof. The temporary vacancy (which occurred on the same turn as that on which Green was scheduled as Steel Tracer) was filled by assigning a labor pool employee junior to Green in departmental service. The Union asks that the Arbitrator direct the Company to "permit the oldest employee who is a member of the labor pool to exercise his seniority rights to go to the highest paying temporary openings which occur on his turn in his department." It also requests that Green be paid the difference between the earnings of Steel Tracer and Shear Helper.

The Union case is based squarely on Article VII, Section 6 (a) (Paragraph 146) which provides that where a "temporary vacancy" of the character defined

> "is on the lowest job in the sequence, it may be filled by the employee in the labor pool group ... most conveniently available in accordance with their seniority standing ... ".

While the Union does not object, specifically, to the scheduling of labor pool employees on the Thursday preceding a workweek to vacancies in a sequence known to exist, it insists that such scheduling should not interfere with the right of the oldest labor pool employee conveniently available to exercise his rights under Paragraph 146 to an "absence vacancy" that may later develop, yielding higher pay.

According to the Company, difficult problems of scheduling, always endemic in this mill, were multiplied when it found it necessary, as a result of Arbitration No. 167 to deprive some forty or fifty employees of their sequential standing in its sequences. Previously, it appears, temporary vacancies were filled by employees with sequential standing; after the award, employees who had no sequential standing were called upon to fill vacancies in the sequences, including those due to extended operations.

In adjusting to this new development the Company, according to its argument made at the hearing, first considered that it was absolutely required, by Article VI, Section 8 (Paragraph 127) to schedule for a temporary vacancy known to be open during the next week, the oldest man in the labor pool who could do the work. Such an employee, after scheduling, would be privileged to move up to fill a higher job in the sequence to which he had been scheduled, should one develop during the turns in the week for which he had been so scheduled. In such a case, of course, the vacancy caused by his temporary promotion in the sequence would be filled from the labor pool. However, once the Company on a Thursday has scheduled the oldest man in the labor pool for the most advantageous vacancy that is known to exist in the ensuing week, it no longer considers him to be in the labor pool during that ensuing week. The next step, in its logic, is for the Company to assert that in the next week, should a vacancy develop in the lowest job of another sequence which is more highly rated than that for which he had been scheduled, he is not regarded to be

> "an employee in the labor pool group ... most conveniently available in accordance with their /his/ seniority standing."

Accordingly, such other vacancy is not available to the employee who had been scheduled, but is filled from those who were "scheduled" for the labor pool.

A full and fair exposition of the Company's practice and thinking in this regard requires mention of the fact that any disadvantage that this might cause the employee who had been scheduled on the previous Thursday is remedied on the following Thursday. It is stated by the Company, and not denied by the Union, that a review of the situation is made every Thursday and if, on the following Thursday, a more advantageous vacancy needs to be filled during the next week, the oldest man in the labor pool will be rescheduled or reassigned to it even though, like Green, he had served out the week in a vacancy in a sequence with lower pay.

This dispute by no means has a black and white solution. The problem is particularly acute in Plant No. 1 Mills because of the impact of Award 167 and the resulting depletion of employees with sequential standing and the necessary increase in the number in the labor pool.

To a restricted degree, a somewhat similar problem was considered in Award 373, in which a grievant with sequential standing was stepped back to the labor pool and on the day in question could not exercise his right to be recalled to a temporary job in his sequence because he had already been assigned to a temporary job in another sequence. I held in that case that Paragraph 146 (Section 6 (a) of Article VII) rather than Paragraph 145 governed, and sustained the Company.

In Paragraph 146, upon which the Union relies in the instant case, I note two significant thoughts. Temporary vacancies in the lowest job in a sequence (1) may be filled by the employee in the labor pool in accordance with seniority standing, and (2) by those most conveniently available. The permissive "may" is in contrast to the mandatory "shall" which appears in this paragraph both before and after this provision in which "may" is used. The reference to those most conveniently available must be taken to be the parties' recognition of certain unavoidable practical problems that arise in connection with Management's obligation to schedule adequate forces and its right to operate as efficiently as possible. Grievant, after all, had already been scheduled on a temporary assignment which was to continue for several days. There is a fair question as to whether he was "conveniently available" for another vacancy which arose because of the unexpected absence of another employee, and which would probably last only for the balance of the turn.

The course that Management has followed, described above, and its efforts to meet the Union's general position which is pointed out in some detail in the Union's brief, seem to reflect a genuine desire to conform to the spirit and purpose of the contract provision in question consistently with its other duties and rights under the Agreement.

On the record, it would seem that the facts and circumstances of this case justified the Company in following the course described in this instance, and that in doing so it did not violate the letter or underlying intent of the provision in question.

AWARD

This grievance is denied.

Dated: January 10, 1961

/s/ David L. Cole
David L. Cole
Permanent Arbitrator