INLAND STEEL COMPANY

-and-

UNITED STEEL WORKERS OF AMERICA
Local Union 1010

ARBITRATION AWARD No. 354

Appeal No. 37
Grievance No. 7-F-58

PETER M. KELLIHER
Arbitrator

APPEARANCES:

FOR THE COMPANY:

MR. W. A. DILLON, Assistant Superintendent, Labor Relations
MR. R. J. STANTON, Assistant Superintendent, Labor Relations
MR. H. S. ONODA, Labor Relations Representative
MR. SID MELESKIE, Heater Foreman
MR. MILES RIFFLE, Division Supervisor

FOR THE UNION:

MR. CECIL CLIFTON, International Staff Representative
MR. F. GARDNER, Chairman, Grievance Committee
MR. J. WOLANIN, Secretary, Grievance Committee
MR. C. SZYNANSKI, Grievance Committeeman

THE ISSUE

The grievance reads:

"Aggrieved employee, J. Sepulveda, #11252, alleges that he was unjustifiably given three (3) days off September 24, 25, and 26, 1958, for running the blocks on the Pit Crane. The Pit Crane has no limit switch."

Relief sought:

"Aggrieved requests the Company pay him for all days lost; also that discipline statement be removed from his personal record."

DISCUSSION AND DECISION

The Grievant, a Pit Craneman, was given a three (3) day lay-off for running the blocks on the #2 Pit Crane. He received the same amount of discipline about eight (8) months earlier for running the blocks on the #1 Crane. Unlike the #3 Crane, neither the #1 nor the #2 Pit Cranes have limit switches. The evidence, however, is that it is not feasible to have a limit switch on these cranes. They have been operated for about forty years without limit switches, and many Cranemen have worked on these cranes for considerable periods of time and never run the blocks.

The Union states that one of the principal reasons for not appealing the earlier January 29, 1958 discipline to Arbitration was that the Union did not have sufficient evidence, as it now has, with reference to its claim of discrimination.

The step one answer to the prior grievance shows, however,

that the Union there claimed that "It is a common occurence with Pit Crane Operators to run the blocks, and that none of them have been reprimanded or disciplined". This statement in the earlier case, like the allegation in the present matter, is essentially a charge of discriminatory application of penalties. Both parties in the earlier grievance presumably had the same opportunities then to gather and present evidence as they did in the instant case. The grievance record in the earlier case shows no denial of the Company's assertion that at least as of January 29, 1958 - "seven (7) Pit Crane Operators had received warnings, and two (2) of the seven (7) had received discipline for running the blocks".

An analysis of the record shows that running the blocks is not the almost everyday occurence that the Grievant asserted in his testimony. Supervision knows of each occurence, because in the words of the Grievant - "Everyone knows it - it is like a holiday." The Union claim as to the alleged frequency of these occurences is not borne out by the Company records on delays. It is significant that the Grievant has not run the blocks since this last discipline of September, 1958 to the present, when he has been steady on the #2 Crane. His own testimony is that since Foreman O'Donnell passed away some time ago, almost no one has run the blocks. This is in accord with the

Company testimony that no one ran the blocks in the last year. (Tr 69) The Arbitrator cannot find that it is a functional hazard of the job.

While the Company has the main burden of proof in a disciplinary matter, once the Union raises a specific defense it has the duty of affirmatively producing adequate evidence to support it. The essence of discrimination is unequal treatment under similar circumstances. This was the Grievant's second offense, and yet he was penalized to the same extent that he was on his prior first offense, which occured last year.

Other employees were given disciplinary lay-offs for this offense. The evidence does not show the length of their lay-offs, or whether it was their first offense. The Grievant here admits that he was eating a sandwich while operating the crane when running the blocks. He did not testify that he had gone an unreasonably long time without eating. The evidence would indicate the improbability of his having no adequate time to eat, and that he was required to eat while operating this crane on this particular lift. No showing was made that there was a workload increase or a decrease in the force after the prior foreman died.

This Arbitrator does not believe that justice would be served, either in relation to the Grievant or to his fellow

employees, if the penalty were set aside in this case based upon the evidence here presented. The records of the Crane Operators, including the Grievant, show an improvement. It is to the benefit of all employees that safety rules be strictly enforced, particularly where an infringement can result in physical injury.

AWARD

The grievance is denied.

(signed) Peter M. Kelliher
PETER M. KELLIHER

Dated at Chicago, Illinois
this 25th day of August, 1960