INLAND STEEL COMPANY

-and-

UNITED STEEL WORKERS OF AMERICA
Local Union 1010

ARBITRATION AWARD No. 362

Appeal No. 52
Grievance No. 10-F-51

PETER M. KELLIHER
Arbitrator

APPEARANCES:

FOR THE COMPANY:

MR. W. A. DILLON, Assistant Superintendent, Labor Relations
MR. M. S. RIFFLE, Divisional Supervisor, Labor Relations
MR. J. L. BALTUS, Turn Foreman, Plant #1 Mills
MR. R. C. REED, Safety Engineer, Safety Department

FOR THE UNION:

MR. CECIL CLIFTON, International Staff Representative
MR. J. WOLANIN, Acting Secretary, Grievance Committee
MR. W. BENNETT, Grievance Committeeman
MR. D. VELASQUEX, Steward
MR. R. CRAWFORD, Steward
MR. C. BROWN, Safety Committeeman
MR. T. KEYES, Aggrieved

THE ISSUE

The grievance reads:

"The aggrieved, Timothy Keyes, #1769, contends he was issued a letter of discipline by the Company giving him two (2) working days off for allegedly violating the Company safety rules on the date of 9-15-58."

Relief sought:

"Aggrieved by paid earnings lost as a result of the Company's action and the letter of discipline be removed from the record of the aggrieved."

DISCUSSION AND DECISION

The evidence here presents a very close question of fact. Did the Grievant fail to put the chain up or did the design of the hook together with the vibration of the table cause the hook to drop out of the hole and the chain to fall?

Mr. Keyes, who appeared to be a very straightforward witness during the investigation and in prior steps of the grievance procedure, stated that he is not sure whether or not he had hooked the chain at the time the cover was removed. At the hearing, he conceded that the chain was off at the time of the accident. From the Company's argument in its Brief at page 6, it is evident that in some prior discussions the Grievant had contended "that he does conscientiously place the chain guard into position whenever the scrap pit platform cover is removed and that he did so that morning".

The Company then argued that if the chain guard were placed into position that it would remain in position until such time as it is deliberately unhooked.

Despite this Arbitrator's policy to uphold reasonable discipline particularly with reference to safety where the lives of employees are at stake, the Company nevertheless has the burden of proof to show that the Grievant is guilty of the violation charged. The Company did not produce the actual hook. The Grievant's testimony constituted the only direct evidence as to the design of the hook. He alleged that it had about a 45 degree angle at the bend and that there was only one inch of the hook that could be inserted into the hole. The Company argued that if this were so, the hook would not hold in the one-inch diameter hole particularly considering the weight of the chain. The Grievant testified that the hole was in the depressing table or a table attached to it and that this area moves up and down. The Company, at page 7 of its Brief, contends that the "movement of the depressing table or the bouncing movement of the table is insufficient to bounce the hook from its position in the hole". Whether this could in fact happen would be largely dependent on the angle and the length of that portion of the hook after the bend. The Company made no physical comparison with the original hook as the facsimile hook was being made.

The Grievant was the only "eye witness" who testified. He appeared to be a credible witness. He inferred that the shear had been working with consequent vibration before the billet "got stuck". The Company relied upon circumstantial evidence, that the chain was in a "heap" some time after the accident near the wall, to reach the conclusion that the chain had not been placed across the opening. The Grievant, however, testified that immediately after the accident upon seeing the chain down he put it across to prevent a further possible accident.

The Union presented several witnesses who work in this area who testified that the hook had vibrated loose on prior occasions because the hole was in an area of movement.

Where the evidence is somewhat evenly balanced, certainly some consideration must be given to the good record of the employee with reference to safety, which here demonstrates that he has proper safety habits. The arbitrator must conclude that the Company has failed to sustain its burden of proof in this matter.

AWARD

The grievance is sustained.

(signed) Peter M. Kelliher
PETER M. KELLIHER

Dated at Chicago, Illinois
this 19th day of August, 1960