

INLAND STEEL COMPANY)

and)

UNITED STEELWORKERS OF AMERICA)

Local Union 1010)

Grievance No. 5-F-52

Appeal No. 68

Arbitration No. 373

Opinion and Award

Appearances:

For the Company:

W. A. Dillon, Assistant Superintendent, Labor Relations Department
L. Stasco, General Labor Foreman, No. 2 Open Hearth

For the Union:

Cecil Clifton, International Representative
Don Black, Chairman, Grievance Committee
Leo Hernandez, Grievance Committeeman

This dispute involves the right of an employee who has been stepped back to the labor pool to insist on filling a temporary vacancy or being recalled to such a vacancy in his sequence, in accordance with his seniority.

The grievant, L. Solis, a Third Helper in the Floor Sequence of No. 2 Open Hearth, Had been transferred to the labor pool. On the day in question he had been assigned to fill a temporary vacancy as Hi-Lift Trucker in the Mobile Equipment Sequence. A half-hour later a temporary vacancy occurred because of the absence of a Third Helper, and the Company filled this by placing M. Avila in the job. Avila had less sequential seniority than Solis, and this led to the filing of this grievance, Solis citing Article VII, Section 5, Paragraph 145, in support of his contention that he, rather than Avila, should have been recalled to his sequence.

Management rejected this grievance because Solis at the time the temporary Third Helper vacancy was filled was not in the labor pool, having been placed in the Hi-Lift Trucker job shortly before. Under these circumstances, Management's view is that Section 6 (a), Paragraph 146, applied, rather than Section 5, Paragraph 145, of Article VII.

The difference between these two paragraphs may be seen by comparing the following language:

Paragraph 145 (Section 5)

"Employees who have been in a sequence and are stepped back to the labor pool under the provisions of this Article shall be entitled to jobs in the department labor pool in accordance with their departmental continuous length of service and they shall be recalled to their sequence, when needed, in accord with their sequential seniority."

Paragraph 146 (Section 6 (a))

"Promotions. Temporary vacancies of twenty-one (21) consecutive days or less and those where no definite information as to the duration of the vacancy has been furnished to the department management by the time schedules for the next work week are posted, shall be filled by the employee on the turn and within the immediate supervisory group in which such vacancy occurs in accordance with the provisions of this Article, except that, where such vacancy is on the lowest job in the sequence, it may be filled by the employee in the labor pool group (including available employees in single job sequences) most conveniently available in accordance with their seniority standing, and except that such vacancies due to vacations may be filled in accordance with sequential standing where the superintendent of the department and the grievance committeeman so agreed under the 1954 Collective Bargaining Agreement between the parties. Temporary vacancies which are known to extend twenty-two (22) consecutive days or more shall be filled by the employee within the sequence who is entitled to the vacancy under the provisions of this Article."

Paragraph 145 speaks of recall to an employee's sequence, while Paragraph 146 relates to filling a temporary vacancy.

It should be noted that temporary vacancies extending beyond 21 days must be filled in accordance with sequential seniority, and that the same principle applies to the filling of permanent vacancies, both by virtue of the expression "under the provisions of this Article," referring to Article VII, Seniority.

Superficially, Paragraphs 145 and 146 would seem to overlap. The situation with which we are concerned in this case, however, is a temporary vacancy not previously anticipated, arising by reason of the unexpected absence of a Third Helper, which is the lowest job in the Floor Sequence. This precise situation is provided for in Paragraph 146. If it were not, then Paragraph 145, providing generally for recalls to one's sequence, would govern. Paragraph 145 is far broader in scope than Paragraph 146. A reasonable rule of contract interpretation is that when a given situation is covered by two contract provisions, the specific provision is given priority over the general one.

When Section 6 (a) speaks of filling temporary vacancies of 22 days or more or permanent vacancies "under the provisions of this Article," one of the provisions referred to is Paragraph 145. This confirms the view that, since there is a specific provision governing the filling of a designated kind of temporary vacancy in the lowest job in the sequence in Paragraph 146, Paragraph 145 was intended to apply to recalls to jobs in one's sequence other than such specified temporary ones, that is, permanent jobs or temporary vacancies which will extend beyond 21 days. The parties by agreeing on these two provisions obviously intended to distinguish between recalls to jobs in the employee's sequence and the filling of temporary vacancies of the kind that are unexpected or of short duration and are the lowest in the sequence.

The Union expressed some concern over the possibility that Management could deliberately place an employee stepped back into the labor pool in a temporary vacancy in some other sequence in the department for the purpose of discriminating against him when a temporary vacancy occurs in his own sequence. If such discrimination were practiced, other provisions of the agreement might offer some protection, but there was no evidence whatever that Solis was placed in the Hi-Lift Trucker job with such thought in mind. The Union hardly needs to be reassured that the employees are entitled to the protection given them by virtue of their seniority rights set forth in the agreement, but all of us concerned with the application and administration of the contract must be guided by what the contract itself stipulates.

A W A R D

This Grievance Is Denied.

Dated: November 7, 1960

/s/ David L. Cole
Permanent Arbitrator