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In the Matter of Arbitration Between:

THE INLAND STEEL COMPANY

ARBITRATION AWARD NO. 402

- and the -

Grievance No. 16-F-375

UNITED STEELWORKERS OF AMERICA,
AFL-CIO, Local No. 1010

Appeal No. 195

PETER M. KELLIHER
Impartial Arbitrator

APPEARANCES:

For the Company:

W. A. Dillon, Asst. Superintendent, Labor Relations
L. E. Davidson, Asst. Superintendent, Labor Relations
W. M. Weichsel, General Foreman, Cold Strip
H. S. Onoda, Labor Relations Representative, Labor Relations

For the Union:

Cecil Clifton, International Representative
Ted Rogus, Griever
Al Garza, Secretary, Grievance Committee

STATEMENT

A hearing was held in Gary, Indiana, on March 14, 1961.

THE ISSUE

The grievance reads:

"Aggrieved, W. Terry, #14855; G. Kohle, #14837; B. Farcus, #15268 and A. Almazon, #14562, #3 Pickle Line, was scheduled to work seven (7) 3-11 turns for the week of April 12 to the 18th inclusive. Two (2) relief men (Not established in the sequence) were carried on schedules to allow Company to operate seven (7) 3-11 turns without payment at premium time. Due to a breakdown on Saturday, April 11, 3-11 turn, line could not start Sunday 3-11 turn as expected. Laying off men who were to work Sunday rather than change schedules was deemed the solution.

One (1) day's Pay due employees for violation of the Collective Bargaining Agreement.

DISCUSSION AND DECISION

A breakdown occurred on Saturday, April 11, 1959. When it was determined that the equipment could not be repaired in time for the 3 to 11 shift on Sunday, April 12, the employees were called and told not to report. The grievants did not obtain forty hours of work during that week, but certain non-sequential employees did work forty hours.

Article VI D (3) states that "schedules may be changed by the Company" under certain specified conditions. This Arbitrator in Arbitration Award No. 358 in analyzing this same language stated:

"Although Article VI, Section I-D-(3) states that the Company 'may' change schedules after a calendar

posting day under certain specified conditions, the use of the term 'may' unlike 'shall' shows that it is merely permissive or optional. It does not state an obligation or duty."

A careful reading of the cited contractual provision clearly shows that by the use of the term "may" the Company was granted an option. This is reinforced by the understanding that in certain excepted situations local agreements might provide that schedules are not to be changed in the absence of a mutual agreement. The term "may" is a well understood "word of art" in contrast to the mandatory "shall". This Arbitrator would be clearly violating his authority under the contract if he were to interpret "may" in any other manner. In Arbitration Award No. 353, this Arbitrator stated:

"The Company concedes that when it posts the original schedule each Thursday, it makes a determination as 'to the needs and in determining what jobs employees work have a higher standing and which employees should be scheduled to the higher jobs'.

The Arbitrator can find no contractual sanction for any other method of staffing jobs when a change is necessary. There is no guarantee of hours of work under this Contract but when work is available, it is anticipated that it will be scheduled with due recognition of the established seniority rights of employees."

In this particular case the Company did not exercise its option to change the schedule and there is no contractual requirement that it must do so under the circumstances here present. It is fundamental that an option or an election cannot be

construed as an obligation. The Union does not claim that there was an over-scheduling of the work forces during this particular week. It is evident that the Company did schedule adequate forces as it was reasonably able to foresee the need at the time the schedule was posted. Unlike other cases cited, there was here no work available for the grievants on the scheduled day of Sunday, April 12, 1959, due to the breakdown. This is not a case of employees being denied an opportunity to work on a scheduled work day when work was available.

AWARD

The grievance is denied.



Peter M. Kelliher

Dated at Chicago, Illinois

this 5th day of May, 1961