VI-1

INLAND STEEL COMPANY )
)
and )
)
UNITED STEELWORKERS OF AMERICA )
Local Union 1010 )

Grievance No. 6-G-6
Appeal No. 269
Arbitration No. 424

Opinion and Award

Appearances:

For the Company:

W. A. Dillon, Assistant Superintendent, Labor Relations
R. J. Stanton, Assistant Superintendent, Labor Relations
L. R. Mitchell, Divisional Supervisor, Labor Relations
A. T. Anderson, Divisional Supervisor, Labor Relations
S. Zabrecky, Mechanical Foreman, #1 A.C. Station, Power & Steam Department
A. J. Metzen, Chief Clerk, Power & Steam Department
H. S. Onoda, Labor Relations Representative, Labor Relations

For the Union:

Cecil Clifton, International Representative
Al Garza, Secretary, Grievance Committee
Ed Urbanik, Grievance Committeeman
J. Reese, Witness

The grievant is a Pump Station Oiler. He had been scheduled in the week of January 24, 1960 to work in No. 2 Pump Station Tuesday through Saturday, being off Sunday and Monday. To have grievant cover a vacation vacancy, the Company decided to change his schedule so that he would work on Sunday and Monday, be off Tuesday and Wednesday, and work on Thursday, Friday and Saturday. Grievant asserts that he was not notified of this change, and therefore took off Sunday and Monday as scheduled, and when he reported for work on Tuesday he was sent home, other arrangements having been made to cover his job. He worked only Thursday through Saturday, losing two days of work that week. He filed the instant grievance as well as one for four hours' pay for reporting in on Tuesday and finding no work available. The Company granted the latter grievance and gave him the reporting pay. In the grievance we are considering he requests compensation for the two days of work he lost.

The Company resists this grievance by contending that the changed schedule was "made known to [grievant] in accordance with prevailing practices" not later than Thursday of the preceding week, as stipulated in Article VI, Section 1 (Paragraph 91). It also contends that even if grievant suffered a loss as a result of faulty scheduling there is no provision in the contract which would impose on the Company any greater obligation than the four hours of reporting pay, which it conceded and allowed to grievant in his other grievance.

In the course of the discussion at the hearing the Company acknowledged that if an employee were improperly deprived of work because of discriminatory treatment or the ignoring of his seniority rights, he would be entitled to relief. This is in line with the holding of Arbitrator Kelliher in Arbitration No. 353, and with the dictum in my opinion at page 2 of Arbitration No. 236.

Surely, the principle that one who suffers a loss because of the failure or unwillingness of another to comply with a contractual provision should be made whole for such loss, is too well established to merit discussion. The fact that the agreement stipulates special or lesser penalties in certain specified circumstances does not deprive a party to an agreement of the benefit of this basic principle in circumstances for which no special stipulation is made.

The issue in this case turns on the facts. Was grievant notified by Thursday of the preceding week of his schedule for the week of January 24, in accordance with prevailing practice?

It was testified that for many years the practice with reference to scheduling in this Mechanical Operating Pump Station Sequence has been to post a master schedule for a 12 week period in the five Pump Stations. By Thursday of each week a weekly schedule is delivered designating the station, job, and schedule of each man, as well as a Departmental Communication Form for each employee giving similar information. These schedules and forms are delivered by the Foreman to one of the employees in each Pump House, and the Operator posts the weekly schedule on the board and leaves the other forms on top of his desk. It is claimed that this practice was followed in this case, the Departmental Communication Form for grievant having been delivered by the Foreman to No. 2 Pump Station on Wednesday, January 20, with the weekly schedule for the week of January 24 being mailed the same day to No. 2 Pump Station by an internal mail delivery system.

Grievant testified that this was not so, that he neither received nor saw either of the two forms of notification, until it was too late, and that the fact that some other employee in No. 5 Pump House was given a related notification has no bearing on his situation, No. 5 Pump Station being a considerable distance away.

It is always difficult to choose between two directly conflicting witnesses. In this case, the more tangible and plausible evidence supports the grievant's version. This is so because grievant did not report for work on Sunday and Monday as the revised schedule required and no effort was made by Management to ascertain why this occurred until he reported as originally scheduled on Tuesday. Instead of disciplining him for being absent on Sunday and Monday, without excuse and without notifying his supervisor, the Company granted his request for reporting pay on Tuesday. Surely, if he had been duly notified not to report on Tuesday, as claimed, he would not have been entitled to the four hours' pay allowed him.

On all the evidence, the finding is that grievant was not notified of his revised schedule in accordance with prevailing practice. Somehow, there appears to have been a slip-up.

Grievant received pay for four hours of the 16 hours he lost, which should be deducted from the two day's pay to which he is entitled pursuant to the foregoing finding and reasoning.

AWARD

This grievance is granted, except that the Company shall reduce the amount requested by the four hours' pay already given to this grievant.

Dated: September 27, 1961

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