



added: "In my opinion, he has recovered sufficiently to return to his regular job."

After a physical examination at the Company's Medical Department on May 13, 1958 grievant was given a job as Pit Hooker, with the restriction that he be placed at floor level work which does not require excessive or rapid walking. The job was modified for him to avoid climbing ladders or working on mould tops or above ground level. The Company had him re-examined on July 25, 1958 and January 10, 1959. He continued during this period to wear his leg brace. Following receipt of the letter of May 11, 1959, the Company's Medical Department again examined him physically, and changed his restriction to: "... permitted to work within his manifest physical capacity ...". Thereupon four foremen independently observed him for a week at a time, and agreed he was too unsteady on his feet to work on ladders or on the top of moulds or in and out of ladles, and he was continued as a Pit Hooker with modifications of his duties as such. His grievance was filed February 4, 1960, whereupon he was observed by the Director of the Safety and Plant Protection Department who reported a lack of firmness or strength in his right leg and concurred in the opinion of the General Foreman that he did not have the physical capabilities to work as Third Ladleman.

The Union's contention is that when grievant filed this grievance he was fully capable of performing the duties of Third Ladleman, that the work as Pit Hooker was equally hazardous and demanding, and that the medical restrictions placed on him were unreasonable and without foundation in fact. The Union insists that the burden of proof is on the Medical Department and that the proper way of determining his capabilities would be to try him out on his old job.

A detailed description of the work of Third Ladleman rules out this test suggestion. The climbing and working at precarious points with possible drops of 10 to 20 feet make this an unrealistic risk. It is also clear from all the evidence that grievant has been performing only part of the work of Pit Hooker, being under instructions not to work on the edge of moulds or at other places that would be hazardous to one with defective footing.

It is always troublesome when the opinions of an employee's personal physician and the Company's Medical Department are inconsistent. In this instance I am convinced that the Medical Department made a much more thorough investigation of grievant's physical capabilities in the light of the specific job duties and hazards of his so-called regular job than was made by his personal physician. It also developed facts and enlightened opinions as to the risks involved by having a series of supervisors observe him separately, and subsequently by obtaining corroboration through the Director of the Safety Department. There is not the least bit of evidence to suggest anything but an objective investigation and an honest and reasonable appraisal of all the conditions involved.

For all these reasons, the finding must be that the Company reasonably observed its obligations under Article XI, Section 1, and did not improperly

deny grievant his rights under Article VII, Section 8.

AWARD

This grievance is denied.

Dated: September 27, 1961

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