In the Matter of Arbitration Between:

ARBITRATION AWARD NO. 460

INLAND STEEL COMPANY
- and -
UNITED STEELWORKERS OF AMERICA,
Local 1010

Grievance Nos. 22-G-44, 45
Appeal Nos. 434 and 436

PETER M. KELLIHER
Impartial Arbitrator

APPEARANCES:

For the Company:

W. A. Dillon, Assistant Superintendent, Labor Relations
E. H. Gatewood, General Foreman, No. 3 Open Hearth
R. H. Ayres, Assistant Superintendent, Labor Relations
A. M. Kroner, Superintendent, No. 3 Open Hearth
H. S. Onoda, Labor Relations Representative, Labor Relations
L. R. Mitchell, Divisional Supervisor, Labor Relations

For the Union:

Cecil Clifton, International Representative
Joseph Gyurko, Grievance Committeeman
Al Garza, Secretary, Grievance Committee

STATEMENT

Pursuant to notice, a hearing was held in Gary, Indiana, on November 21, 1961.

THE ISSUE

These grievances are identical and only Grievance No. 22-G-44 need be quoted. It reads as follows:

> "Aggrieved employee, H. Hinant, #23686, lost two (2) days of work September 18 and 19, 1960, because Management did not post a schedule on Thursday of the week preceding the calendar week in which the schedule becomes effective.
>
> H. Hinant, #23686, requests Management to pay him 2 days pay as Hot Metal Craneman, September 18 and 19, 1960."

DISCUSSION AND DECISION

The employees in this Department had been on a 6--2 modified schedule. Because approval was withdrawn for this type of schedule, the Company then went to a 5--2 schedule. The following contractual provisions have been cited as being pertinent to a determination of this issue:

> "Schedules showing employees' workdays shall be posted or otherwise made known to employees in accordance with prevailing practices but not later than Thursday of the week preceding the calendar week in which the schedule becomes effective unless otherwise provided by local agreement.
>
> Schedules may be changed by the Company at any time except where by local agreement schedules are not to be changed in the absence of mutual agreement; provided, however, that any changes made after Thursday of the week preceding the calendar week in which the changes are to be effective shall be explained at the earliest practicable time to the grievance or assistant grievance committeeman of the department involved; and provided further that, with respect to any such schedules, no changes shall be made after Thursday except for breakdowns or other matters beyond the control of the Company."

The evidence in this case would indicate that the Company did post a three (3) weeks schedule on September 1, 1960. This covered the period from September 4 to September 24, 1960. This schedule, however, was removed prior to Thursday, September 15, 1960.

The Company testimony would indicate that the three-weeks schedule above referred to was removed on Tuesday, while Union testimony is that it was seen by employees on Wednesday. There is no evidence in this record that would show that either this or any other schedule was on the bulletin board on Thursday, September 15. The Company did post a schedule on Friday, September 16. This Arbitrator must find that actually no schedule was in existence as of Thursday of the week preceding the calendar week in which the schedule was to become effective. The removal of the prior three-weeks schedule cannot be given the constructive effect of notice to the employees of a new schedule. In any event, the new schedule was not posted until after Thursday.

The record does indicate that the practice that existed at the time of the execution of this Contract was to post weekly schedules. The posting on a weekly basis is significant and not the content or

type of schedule. The Company was unable to produce definite testimony that a three-weeks type of schedule was posted prior to going to a 5--2 schedule. The Company witness believed that such a schedule might have been posted many years ago, "but was not sure". At the date of the execution of the Contract there was no past practice to post three-weeks schedules.

In the absence of a showing of a definite and conclusive practice to the contrary, the language of Article VI, Section 1(d) would indicate that the probable intent of the Parties was to post weekly schedules because of the specific reference to the calendar date "Thursday of the week preceding the calendar week in which the schedule shall become effective". As of the critical date here involved, i.e., Thursday, September 15, actually no schedule posting was in existence. This is not a case of a change in a schedule that had been properly posted under Paragraph 91. The language of Paragraph 92 could only be given effect once there had been a proper posting and the Company then desired to change the schedule.

It is likewise clear that much of the language of Article VI, Section 5 is not here applicable because the Company did not fulfill its obligation, i.e., it did not properly schedule the employees. The factual situation here involved is considerably different than that contemplated in Article VI, Section 5. This grievance has its basis in the fact that employees did not report for work because they understood from the prior three-weeks schedule that these were to be their days off. Article VI, Section 5, on the other hand, contemplates a situation where an employee reports for work as scheduled or notified and then finds that there is no work available for him.

In the Company's Third Step Answer, Management states that an employee must make an effort "to ascertain his schedule". There is no requirement in this Contract that under the circumstances here involved that employees should call in or come in to determine their proper schedule where the Company has not complied with the proper posting of schedules. The testimony is that Mr. Hinant was in Southern Illinois and Mr. Drummond was in West Virginia after Friday, September 16. The Company in the case of Mr. Hinant makes no claim that he had not properly advised the Company of a reliable means of communication. Mr. Drummond testified that he had given the Scale House Foreman his proper phone number and that the Company had called him at this phone number for extra turns. Employees are asked to check twice a year the form as to whether their address is correct. No showing was made that where an employee makes a change of address at other times that this must be done in writing.

AWARD

The grievances are sustained. The employees shall be made whole for earnings lost.

Peter M. Kelliher

Peter M. Kelliher

Dated at Chicago, Illinois
this 12 day of April 1962.