In the Matter of Arbitration Between:

INLAND STEEL COMPANY — ARBITRATION AWARD NO. 479

- and - — Grievance Nos. 20-G-11, 12, 13, and 14.

UNITED STEELWORKERS OF AMERICA, AFL-CIO, Local Union No. 1010 — Appeal Nos. 376, 377, 378, & 379

PETER M. KELLIHER
Impartial Arbitrator

APPEARANCES:

For the Company:

Mr. W. A. Dillon, Assistant Superintendent, Labor Relations Department
Mr. R. H. Ayres, Assistant Superintendent, Labor Relations Department
Mr. A. Gawlikowski, Foreman, Carpenter Shop
Mr. R. Petti, Manager, Industrial Relations, Inland Steel Container Corporation
Mr. A. T. Anderson, Divisional Supervisor, Labor Relations Department
Mr. H. S. Onoda, Assistant Manager, Industrial Relations Department

For the Union:

Mr. Cecil Clifton, International Representative
Mr. James Banaloff, Grievance Committeeman
Mr. Clarence Jeka, Grievant
Mr. Frank Ignas, Grievant
Mr. George Chigas, Assistant Grievance Committeeman

STATEMENT

Pursuant to proper notice a hearing was held in Miller, Indiana, on May 14, 1962.

THE ISSUE

Grievance No. 20-G-11 reads:

"Ted Linden, #3460, is working a frozen 5-2 work schedule with Tuesday and Wednesday his steady days off. For the week of June 25th his days were

changed to Sunday and Saturday off and in so doing violating the 5-2 pattern.

The relief sought is quoted as follows:
That Ted Linden, #3460, be paid for the change in his schedule at the rate of time and a half for Tuesday and Wednesday."

Grievance No. 20-G-14 reads:

"Frank Ignas, #3468, is working a frozen 5-2 work schedule with Monday and Tuesday his steady days off. For the week of June 19th through June 25th his days were changed to Sunday and Saturday off, and in so doing violating the 5-2 pattern.

The relief sought is quoted as follows:

That Frank Ignas #3468, be paid for the change in his schedule at the rate of time and a half for Wednesday and Tuesday."

Grievance No. 20-G-13 reads:

"Artis Balentine, #3463, is working a frozen 5-2 work schedule with Tuesday and Wednesday his steady days off. For the week of June 19th through June 25th his days were changed to Sunday and Saturday off, in so doing violating the 5-2 pattern.

The relief sought is quoted as follows:

That Artis Balentine, #3463, be paid for the change in his schedule at the rate of time and a half for Tuesday and Wednesday."

Grievance No. 20-G-12 reads:

"Clarence Jeka, #3477, is working a frozen 5-2 work schedule with Thursday and Friday his steady days off. For the week of June 19th through June 25th his days were changed to Sunday and Saturday off, in so doing violating the 5-2 pattern.

The relief sought is quoted as follows:

That Clarence Jeka, #3477, be paid for the change in his schedule at the rate of time and a half for Thursday and Friday."

DISCUSSION AND DECISION

On December 16, 1959, the Grievance Committeeman withdrew his approval of the schedules in the No. 1 Carpenter Shop. The employees were notified by written notice dated February 17, 1960, that effective with the work week beginning February 21, 1960, they would be scheduled on the basis of a normal work pattern. They continued to be so scheduled to and including the week of June 12, 1960. On June 16, 1960, the Company posted the schedule for the work week of June 19, 1960. On the basis of this schedule the Grievants were scheduled to work Monday through Friday, but were scheduled off on Sunday, June 19, and Saturday, June 25. It is the Grievants' contention that their work week began following their days off during the week of June 12 and that they, thereafter, worked on a non-normal work pattern into the new period.

There is no provision to be found in the Collective Bargaining Agreement that provides for a "frozen" 5--2 schedule. The history of the collective bargaining language clearly shows that the Company does have a right to change schedules. There is no local agreement in evidence under the provisions of Article VI, Section 2-D (3) which provides in effect that "schedules are not to be changed". Where the Parties entered into such an understanding they did so by a written local agreement as in the case of the field forces. The fact that the Parties found it necessary to enter into such a written local agreement shows that they mutually interpreted the present language to permit the Company to make a change in schedules in the absence of such a local agreement. Article VI, Section 1 D (3) clearly provides that "Schedules may be changed by the Company at anytime except where by local agreement schedules are not to be changed in the absence of mutual agreement." The schedule here in question was not changed after Thursday of the week preceeding the calendar week in which the changes were to be effective.

If the work week beginning June 19 be considered in isolation, then the employees were working a normal work pattern during this week. The particular facts here considered, however, relate to a situation of a transition from one normal work pattern to another and different normal work pattern where a violation of the normal work pattern occurs as the result of this transition because the employees have different days off.

The essential question before this Arbitrator is whether such a change can be made only on the basis of a penalty payment of overtime.

There is no precise language in this Contract that expressly states that a penalty payment is due under such circumstances. All of the provisions of Article VI, Section 1, are subject to the statement in the "Scope" paragraph that "This section shall not be considered as any basis for the calculation or payment of overtime". This

paragraph further states that this matter is covered solely by Section 2--"Overtime". Paragraph D (4) of Section 1 does contain a penalty provision. This penalty, however, is applicable only where changes are made in schedules contrary to the provisions in Paragraph (3). The change that was made in the schedule for the week of June 19, 1960, was not made contrary to the provisions of Paragraph (3) for the reasons stated above. Paragraph D (4) is, therefore, not applicable. Section 2 deals with "OVERTIME". It is provided in Paragraph C (1) (c) of this Section that overtime rates shall be paid for hours worked on the sixth or seventh work day in a payroll week "during which work was performed on five (5) other workdays". This penalty provision is not applicable to the circumstances considered herein and likewise the provisions of (d) are not applicable.

It is a maxim of contract interpretation that penalty provisions are to be strictly construed and may not be extended to circumstances not expressed in the language of the Contract. The grievances here considered do request the payment of a penalty because the employees suffered no loss of earnings during the period in question.

This Arbitrator's decision is limited to the particular facts here considered where the non-normal pattern occurred solely as the result of a transition from one normal work pattern to another normal work pattern brought about due to reduced business conditions. There was a reduction from an average of 40 plus open hearth furnaces to an average of 27. There was less need for Sunday work and it was possible to schedule more employees off on both Saturday and Sunday because of the reduced need of maintenance and rebuilding of the open hearth furnaces. Under these circumstances the Company's action cannot be considered as arbitrary. This Award is not intended to be applicable to a situation where the Company arbitrarily schedules employees on the basis of a non-normal work pattern.

- AWARD

The grievances are denied.

Peter M. Kelliher

Dated at Chicago, Illinois

this 9 day of August 1962.