

In the Matter of Arbitration Between:

INLAND STEEL COMPANY

- and -

UNITED STEELWORKERS OF AMERICA,  
AFL-CIO, Local Union 64

ARBITRATION AWARD NO. 511

Grievance No. 201

Appeal No. 804

PETER M. KELLIHER  
Impartial Arbitrator

APPEARANCES:

For the Company:

Mr. W. A. Dillon, Assistant Superintendent, Labor Relations  
Mr. L. R. Barkley, Administrative Supervisor, Labor Relations  
Mr. C. L. Weisenberger, Administrator, Personnel & Safety  
Mrs. Jane Richards, Nurse  
Mr. E. Pirani, General Foreman, Finishing Department  
Mr. A. Chryst, Night Turn Foreman, Finishing Department

For the Union:

Mr. Fred Gardner, International Representative  
Mr. Nick R. Biel, Chairman, Grievance Committee  
Mr. Albert Swope, Aggrieved

STATEMENT

Pursuant to proper notice a hearing was held in EAST HAZELCREST, ILLINOIS, on September 27, 1962.

THE ISSUE

The grievance reads:

"On July 11, 1961, the aggrieved employee received a letter of suspension. The reason for this suspension is not stated in the letter. In fact, what is stated in the letter has been misconstrued by the Company. The aggrieved called in on July 7, 1961, at 3:50-4:00 p.m., speaking to the nurse, Jane Richards, telling her that he would be off that day and also possibly on Monday, July 10, 1961, which he was. His wife knew where he was and not as the Company states in their letter. He had to drive her due to her pregnant condition, and also manage his family, which

his wife also was unable to do due to her condition."

The relief sought reads:

"That this suspension be revoked and the aggrieved received all moneys lost through the Company's action."

The Company's answer reads:

"Albert Swope, #400, was disciplined on July 11, 1961 for absenteeism. This was clearly stated in the discipline letter. There was no violation of Article IV, Section 1, and Article VI, Section 4, as claimed.

The grievance is denied."

#### DISCUSSION AND DECISION

The Grievant was given a three-day disciplinary layoff for failure to report for work as scheduled. It is the Grievant's statement that he did talk to Turn Foreman Chryst on Thursday night and explained that he needed a draw of \$60 in order that his wife could "go down to visit her sick grandfather". It is his claim that he went to the plant at about 2:00 p.m. on Friday and received the money. He did talk to Mr. Weisenberger, Administrator of Personnel and Safety, and assured him that he would be in for work at 5:00 p.m. on that Friday evening. His wife had left with his mother-in-law at about 12:30 p.m. on Friday to pick-up her father in Chicago.

At about 3:00 or 3:30 p.m., when he returned home from the plant, he talked to his brother-in-law who advised him that his wife had telephoned and said she was feeling sick and that she didn't know if she was going to make the trip to West Salem. On the basis of this information he then decided that he would go with his wife to West Salem, a distance of some 300 miles because she was then a little over two months pregnant. He phoned the plant at about 4:00 p.m. and advised the Night Nurse that he would not be in that evening and possibly would not be in Monday, July 10, because he was going to take his wife to see her grandfather. He testified that he did leave for West Salem at about 8:00 or 8:30 p.m. that evening and that there were four adults and five children in the automobile. The adults were his father-in-law and mother-in-law, his wife, and himself. He went on the trip in order to sit next to his wife so that she would not be "bumped around" by the children. He testified that his father-in-law drove one-half the way and he drove the other half. He stated that his mother-in-law also drives. He claims that when he did return to work, General Foreman Pirani did not give him an opportunity to explain the reason for his absence.

The Arbitrator here basically is confronted with a question of credibility. Is the Grievant's version of the incident correct or is credence to be given to the statements of General Foreman Pirani, Night Turn Foreman Chryst, Mr. Weisenberger the Administrator of Personnel and Safety, the Plant Guard, Night Nurse Balfour, and Day Nurse Richards? The Arbitrator is confronted with the further question that if he were to discount all other testimony and rely simply upon the Grievant's own testimony, is it inherently probable? He testified that he became the ninth person in this car setting off on a 300 mile trip at about 8:30 p.m. in the evening because he wanted to keep his wife from being bumped because she was then a little over two months pregnant. She was in the hospital from January 27 to 31, 1962, and did give birth to the baby at that time. It is the Grievant's testimony that when he talked to his brother-in-law about 3:30 p.m., he was advised that his wife had stated in a telephone conversation that she did not know whether or not she was going to make the trip to West Salem. Although he did not at that point know whether his wife was actually going to make the trip he, nevertheless, claims that he called the Company about 4:00 p.m. and reported off. He evidently did this merely on the alleged probability that she might make the trip and that he would want to accompany her and sit next to her one-half the time, when he was not driving. Taken at face value his story is highly improbable. Here was a man living on such a close financial margin that he had to repeatedly plead for a \$60 advance and yet his family permanently lost almost this amount of money by his two days absence. His father-in-law and mother-in-law both were able to drive the car. They were in their middle forties. They could have taken turns sitting next to Mrs. Swope if such a measure were, in fact, necessary. The Grievant's conduct must be considered in the light of his record which reads as follows:

"3-2-61: Made a draw on his pay and did not come in to work the next day. Did not report.

3-17-61: Made another draw. Reported off next day. Personal reasons.

3-18-61: Warned man to come to work.

7-7-61: Made another draw. Man stated he would come in to work the next day. Did not show up.

7-11-61: Suspended three (3) working days - infraction (See letter attached.)"

(Co. X D)

His testimony is at variance with the testimony of Mr. Weisenberger and Nurse Richards. They both deny seeing him at 2:00 p.m. and they clearly recall that he was in the plant shortly before 4:00 p.m. at the time he alleges he telephoned the plant. In the grievance statement that was filed based presumably on conversations with the Grievant

it is claimed that he spoke on the telephone to Nurse Jane Richards shortly before 4:00 p.m. He testified that he knew both the Day Nurse and the Night Nurse. Nurse Richards denies that the Grievant did phone at 4:00 p.m. Nurse Balfour, who started work at 5:00 p.m., signed a sworn affidavit that the Grievant did phone her and the reason he gave was that "his child was sick". The Grievant's statements are also at variance with the testimony of Night Turn Foreman Chryst. The Grievant states that Turn Foreman Chryst did not first deny him an advance. Turn Foreman Chryst stated in his testimony that when the request was first made on Thursday night that he did deny an advance. Turn Foreman Chryst testified that it was not until about 7:00 p.m. that he did grant the Grievant's request. The Grievant claimed that when he came to the plant on Friday, he was not sure that he would get the advance. The Grievant claims also that his wife knew on Friday morning that he was planning on getting an advance. Turn Foreman Chryst testified that when he talked to Mrs. Swope, the Grievant's wife, at about 7:00 p.m. on Friday, she said that she did not "know a thing" about the advance. She also indicated that she did not know about any arrangements to make a trip. She told the Turn Foreman that the reason the Grievant did not work was that he "got the advance". It is noted that the Grievant did not have his wife present to testify. The evidence would indicate that her mother had, in the past, been taking care of the children while she was absent while working as a waitress in a restaurant. The Grievant's testimony was also at variance with the testimony of General Foreman Pirani. Mr. Pirani testified that although the Grievant on the following Tuesday first stated that he had to drive his wife to see her grandfather, he later said in effect, "I just had to take off". A conflict exists also with reference to the General Foreman's testimony that after the three-day suspension period the Grievant advised the General Foreman that he had "done him a favor" by the three-day layoff and that he was "going to buckle down and straighten out" and that he knew he had made a mistake.


Based upon the evidence in this case, the Arbitrator must find that the Company has sustained its burden of proof to show that the discipline in this case was for just cause. The Grievant did have a habit pattern of not reporting after he got an advance. Although the Company is not required to give this employee an advance, it did so on his assurances that he would be present for work on his next scheduled turn. Under these circumstances, the Company should have been able to rely on the good faith expressions of the employee and his appreciation of the courtesy extended to him.

Despite the Union's vigorous defense of the Grievant, it is the Arbitrator's opinion that if he were now to be awarded three-days' pay this would not contribute to the maintenance of the good record he has

had since the imposition of this discipline and well might lead to a resumption of his inconsiderate behavior that could finally lead to his ultimate discharge.

AWARD

The grievance is denied.

  
Peter M. Kelliher

Dated at Chicago, Illinois  
this 6th day of November 1962.