

In the Matter of Arbitration Between:

INLAND STEEL COMPANY

- and -

UNITED STEELWORKERS OF AMERICA,
AFL-CIO, Local Union No. 1010

ARBITRATION AWARD No. 515

Grievance No. 21-G-45

Appeal No. 600

PETER M. KELLIHER
Impartial Arbitrator

APPEARANCES:

For the Company:

Mr. W. A. Dillon, Assistant Superintendent, Labor Relations
Mr. Robert H. Ayres, Assistant Superintendent, Labor Relations
Mr. Ross Elson, Supervising Chemist, Iron & Steel Section,
Chemical Department
Mr. Jack Joyce, Supervising Chemist, Tin Mill Chemical
Section, Chemical Department
Mr. Thomas C. Granack, Labor Relations Representative

For the Union:

Mr. Cecil Clifton, International Representative
Mr. William E. Bennett, Acting Chairman, Grievance Committee
Mr. John Wiseman, Grievance Committeeman
Mr. Glen Ross, Assistant Grievance Committeeman
Mr. George Germek, Witness
Mrs. Mary Dragici, Witness

STATEMENT

Pursuant to proper notice a hearing was held in MILLER, INDIANA
on November 13, 1962.

THE ISSUE

The grievance reads:

"This grievance arises as a result of the Company
practice of working nonsequential employees in a
sequence while sequential employees get less than
five days.

Aggrieved employees: M. Dragici, #24188, and N.
Muzenjak, #24134, contend that they were entitled
to fill opening on January 5 and 11, instead of

R. Trowbridge, #16085, and W. Dorris, #24054, who were nonsequential employees in the Tin Mill Sequence."

The relief sought reads:

"Schedule sequential employees five days when fifth day is available. Pay sequential employees all moneys lost."

DISCUSSION AND DECISION

At the hearing the Union withdrew that part of its claim relative to the week beginning January 8, 1961, and as to the turns worked by Messrs. Wiseman and Dorris. The Company concedes that when Mr. Trowbridge, a non-sequential employee, was called out for work on Thursday, January 5, that the person calling overlooked the fact that although he was scheduled then to work only four turns that week, he was scheduled off on the holiday, Monday, January 2, and that it counted as a turn worked so that Saturday, January 7, then became the sixth day with payment at the overtime rate.

Actually, therefore, if the Company had called Mrs. Dragici, the sequential employee, for this Thursday temporary vacancy, it would not have been at any increased overtime cost because the cycle violation resulting from calling her would not be considered in computing the penalty for the sixth day. Mrs. Dragici was working only four days per week during the period in question and she was entitled to obtain a fifth day in her sequence in preference to non-sequential employees. The fact that this fifth day would have resulted in the payment of overtime is not controlling here because it also resulted in overtime that week for the non-sequential employee. It is not material that on the precise day, i.e., Thursday, overtime would be incurred for Mrs. Dragici because by working that day Mr. Trowbridge thereby earned overtime that week that he otherwise would not have received.

If Management's position were to be sustained, then non-sequential employees could be assigned to jobs within a sequence on a sixth day basis, while sequential employees were only working four days a week. The concept of sequential seniority would then have little meaning in this Contract.

The Union and this Arbitrator agree with the Company's contention in its pre-hearing brief that "nothing in the Agreement requires the Company to incur overtime liability when it can be avoided". Management here, however, elected to schedule this work and it was performed under circumstances where overtime liability could not have been avoided. There is no basis for an assumption that Mrs.

Dragici would have refused this overtime. The unrefuted testimony is that the then Grievance Committeeman acting on her behalf had requested, in effect, that she again be notified of overtime work opportunities. She was not so notified in this case and the Arbitrator cannot speculate that she might have refused to accept the overtime.

AWARD

Mrs. Dragici shall be made whole for earnings lost by Management's failure to schedule her for work on the turn on Thursday, January 5, 1961.



Peter M. Kelliher

Dated at Chicago, Illinois
this 17th day of January 1963.

INLAND STEEL COMPANY
and
UNITED STEELWORKERS OF AMERICA,
AFL-CIO, Local Union No. 1010

CLARIFICATION OF AWARD NO. 515

Grievance No. 21-G-45
Appeal No. 600

In accordance with the joint request of the Parties the undersigned does make the following clarification of his Award rendered on January 17, 1963. The Award read:

"Mrs. Dragici shall be made whole for earnings lost by Management's failure to schedule her for work on the turn on Thursday, January 5, 1961."

If Management did schedule Mrs. Dragici for work on the turn on Thursday, January 5, 1961, there is no question that "she would have been entitled to overtime". (See Company's letter of December 21, 1962 re this subject.) The Arbitrator recognized this in his Award by stating on Page 2:

"The fact that this fifth day would have resulted in the payment of overtime is not controlling here because it also resulted in overtime that week for the non-sequential employee. It is not material that on the precise day, i.e., Thursday, overtime would be incurred for Mrs. Dragici because by working that day Mr. Trowbridge thereby earned overtime that week that he otherwise would not have received."

Once the Company elected to schedule this work on an overtime basis it must be presumed that the Company made a determination that overtime "could not have been avoided". The Grievant, Mrs. Dragici, shall receive a pay adjustment which will include the overtime premium.



Peter M. Kelliher

Dated at Chicago, Illinois
this 6th day of December 1963.