In the Matter of Arbitration Between

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

ARBITRATION AWARD NO. 523

Grievance No. 18-G-60
Appeal No. 667

PETER M. KELLIHER
Impartial Arbitrator

APPEARANCES:

For the Company:

W. A. Dillon, Assistant Superintendent, Labor Relations Dept.
R. H. Ayres, Assistant Superintendent, Labor Relations Dept.
A. T. Anderson, Divisional Representative, Labor Relations Dept.
F. L. Corban, Assistant Superintendent, Yard Department.

For the Union:

Cecil Clifton, International Representative.
Al Garza, Chairman of Grievance Committee.
L. Pena, Assistant Griever.
Clarence Bullock, Witness.
L. De Jarlais, Witness.
J. Borsits, Witness.

STATEMENT

Pursuant to notice, a hearing was held in [redacted], Gary, Indiana, on December 12, 1962.

THE ISSUE

The grievance reads:

> "The aggrieved, Shovel Operators and Helpers, contend that Management has eliminated a condition and practice of long standing where if a shovel works two turns or more in a 24 hour period the operator and helper received a paid lunch period".

The relief sought reads:

> "Aggrieved be paid one-half hour per turn for the time they have been working 2 turns, and the Company stop scheduling the operators 8½ hours with no overtime involved, effective January 8, 1961".

DISCUSSION AND DECISION

The principal question to be determined here is whether the "unpaid lunch period is provided in accordance with prevailing practices?"

The normal work day is eight consecutive hours. The Company is required to sustain the burden of proof to show that the exception here applied that an unpaid lunch period was provided in accordance with prevailing practices. The Company concedes that with respect to multi-turn operations on this job of Loading of Open Hearth and Blast Furnace Slag by the No. 87 and No. 88 Shovels that where the Operators and Helpers were scheduled to work nine hours that a twenty-minute paid lunch period was provided. (See Company Brief pp. 3, 4, 9 and 10). The fact that the predominant schedule, as the Company asserts, is the day turn (second turn) only is not significant. It is conceded that when the day turn only is scheduled that the employees on this turn properly have a half-hour unpaid lunch period. Under the Bethlehem Award (Decision No. 754) referred to by the Company, it is stated that a "practice is followed with respect to three-turn operations is obviously inapplicable to one or two turn operations". Certainly it must likewise be said that a practice with reference to only one turn (day turn) operation is inapplicable with reference to a two or three turn operation.

The paramount consideration here is the operation on a multi-turn basis. Practices based upon whether the Company uses a leased truck or one of its own trucks cannot be considered controlling. Whether the employee works nine hours or performs eight hours of actual work on a multi-turn operation is likewise not significant. Certainly this prevailing practice on a multi-turn operation could not reasonably be abrogated if the Company went to a nine and one-half hour per turn schedule. The Company concedes (Supplement to Company Exhibit "C") that between May 1, 1958, and the end of 1960, there were fifty instances of multi-turn Shovel operations and in thirty-five of these instances the men worked nine hours per turn and received paid lunch periods on all of the turns. This must be considered the predominant general or prevailing practice. The Arbitrator is here required to determine from the evidence what the prevailing practice is with reference to multi-turn operations. If the Company's position were to be accepted, then there would be compartmentalized and minute past practices depending upon the hours worked by each turn and whether leased or Company trucks were being used. It is difficult for this Arbitrator to believe that this is what the Parties had in mind by use of the term "prevailing practices". The Arbitrator considers it somewhat significant in this case that the Operator was required to remain near the equipment during the lunch period. He did perform work in spotting for the fittings and connections during the oiling and greasing by the Helper.

Considering the clear language of Article VI, Section 1 B, and the evidence as to the prevailing practices, the Company should not have scheduled a one-half hour unpaid lunch period. Under these circumstances a remedy making the employees whole is warranted. The employees here were required to spend a longer period of time away from their homes because of these violations.

AWARD

The grievance is sustained.

Peter M. Kelliher
Arbitrator

Dated at Chicago, Illinois,
this 4 day of January, 1963.