

In the Matter of Arbitration Between:

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

ARBITRATION AWARD NO. 552

Grievance No. 8-H-51
Appeal No. 1150

PETER M. KELLIHER
Impartial Arbitrator

APPEARANCES:

For the Company:

Mr. W. A. Dillon, Superintendent, Labor Relations
Mr. Robert H. Ayres, Assistant Superintendent,
Labor Relations
Mr. R. J. Stanton, Assistant Superintendent,
Labor Relations
Mr. T. C. Granack, Divisional Supervisor, Labor Relations
Mr. T. J. Peters, Divisional Supervisor, Labor Relations
Mr. J. H. Penman, Assistant Superintendent,
Merchant Mills
Mr. D. J. Fabian, Assistant Superintendent,
Merchant Mills
Mr. F. Gregorczyk, Foreman, P. C. Dock
Mr. L. Scroggins, Metallurgist, Metallurgical
Department, (Quality Control)

For the Union:

Mr. Peter Calacci, International Staff Representative
Mr. Al Garza, Chairman, Grievance Committee
Mr. William Bennett, Secretary, Grievance Committee
Mr. Walter Green, Grievance Committeeman
Mr. Ray Lopez, Witness
Mr. Sylvester Collins, Grievant

STATEMENT

Pursuant to proper notice a hearing was held in GARY, INDIANA,
on August 8, 1963.

THE ISSUE

The grievance reads:

"The aggrieved, Sylvester Collins, Check No. 7042,
contends that the action taken by the Company when
on February 5, 1963, his suspension culminated in
discharge, is unjust, unfair and unwarranted in
light of all of the circumstances."

The relief sought reads:

"The aggrieved requests that he be reinstated with all seniority rights and be paid all monies lost."

DISCUSSION AND DECISION

It is believed that the importance of this case warrants a full review of the testimony. Foreman Gregorczyk testified that on January 25, 1963, Mr. Collins and Mr. Aroya were working as Hookers. Mr. Collins simply threw the chains around the end of the lift and did not continue to hold the chains so that a proper lift could be made. He then left to go to the Salamander. The Craneman attempted to move his crane so that the chains would be properly aligned. He was unable to do this because the chains caught in the wire wrapped around the lift. The Foreman then went to Mr. Collins and asked him why he did not hold the "damn chains in place". The Foreman then took hold of the chains, released them from the wire, and held them. Mr. Collins then came and also held the chains. Mr. Collins had placed the wire around the south end and it was this wire that became loose. Mr. Gregorczyk also testified that the Grievant was mumbling and grumbling and claiming it was the Craneman's fault for setting the lift down. He replied to the Grievant that regardless of this it was the Grievant's duty to hold the chain. After the lift was raised, Mr. Gregorczyk states that he walked away and Mr. Collins was walking on his left side. He then felt a blow on the left side of his face which knocked his glasses off and he was "stunned". He looked at Mr. Collins and saw that he had an angry look on his face. There had been no argument or discussion while they were walking away from the lift. The frame of his glasses was broken. The Foreman denies that he used the term "Negroes" and states that his only use of what might be termed profanity was "damn" which was not addressed to the Grievant. The use was with reference to the "damn chains". Mr. Gregorczyk testified that he had a cut over his left eye and there was a bruise above his brow.

Mr. Scroggins, a Metallurgist, testified that he saw Mr. Collins take a "full roundhouse swing" and hit the Foreman on the left side of the face. He saw a look of surprise on the Foreman's face. The Foreman's glasses were hanging down. The Foreman took his glasses off and put his hand to his face. Mr. Scroggins testified that he picked up a glove that was on the floor in this area and gave it to Mr. Collins and told him in effect "to take it easy".

Assistant Superintendent Fabian testified that when he received a report that a Foreman had been struck, he went down to the P. C. Dock Office and saw Mr. Collins. The Grievant at that time appeared to be disturbed and very emotional. He had tears in his eyes. When he was asked "Why did you hit Frank?", the Grievant in substance replied "I don't know why I hit him--I am sorry I hit him--I know I am in trouble". Assistant Superintendent Penman,

who accompanied Mr. Fabian on this initial investigation, testified to the same conversation. He also stated that in a subsequent formal investigation held in the Superintendent's office within a period of 15 or 20 minutes after the initial investigation, the Grievant attempted to change his story from an admission of striking the Foreman to a claim that he did it accidentally while throwing his arms gesticulating. At that point Mr. Penman said, "Wait a minute, this is not what you told Mr. Fabian and I previously". It is Mr. Penman's testimony that Mr. Collins then agreed that this is not what he said originally and that the first story that he told the two Assistant Superintendents was correct.

Mr. Peters, Divisional Superintendent of Labor Relations, during a meeting in the Superintendent's office stated that the Foreman displayed the broken frame of his glasses. He also testified that during the suspension meeting of January 31, 1963, when certain specified Union Representatives were present, Mr. Collins made the claim that the Foreman had said "You damn Negroes are no good". Mr. Collins then stated that he replied "I go to church--don't talk to me that way" and he tried to "push" the Foreman away as he made that reply.

Mr. Collins in his testimony stated that when he and the Foreman were both holding the chain he said to the Foreman, "Why are you so excited?". He later testified that "neither of us were mad". He testified that his hand came into contact with the Foreman when he threw back his hands while he was gesturing. He denies seeing Mr. Scroggins that morning. He claims that he had both gloves on. He denies making any admissions of an intentional striking to Assistant Superintendents Penman and Fabian. He stated that he did not lose his temper and he was not "mad". He also claimed that he was actually "laughing" when he and the Foreman were holding the chain. Although he claims that he was not given a full opportunity to tell his story, he also states that he did not answer many of the questions directed to him because the Company Representatives did not want to hear his side of the story. He did not answer these questions and said he would take it up with the Union. He testified that he did not tell Assistant Superintendent Fabian that the Foreman had made a statement using the expression "Negroes" because they were "all against him".

When the Company exhibited a reply from a previous employer indicating that he had been discharged by that Company for fighting, he stated that this report was untrue and that he had quit. He states that on his Inland employment application he did state that he was engaged in farming in Mississippi for the period of time during which he was employed by the other company from which the Company alleges he had been discharged. He did not list this former employer anywhere on his employment form although it is in the same general area as Inland Steel Company. He testified that he simply "forgot to put it on there". The Grievant also stated at the hearing that he had only 2 or 3 years of schooling, while his employment application states "eighth grade". He testified that he brought the employment application home and had

an eighteen-year old girl fill it out. She would ask the questions and he would give her the answers.

The Grievant's principal defense is that the physical contact of his right hand with the left side of the Foreman's face was not a deliberate striking. The Union stated that if it had reason to believe that this was a "deliberate striking", the case would not have been taken to arbitration. For purposes of discussion if it were to be assumed that the two men were simply walking along, both of them were calm, "neither was mad" and the Grievant was simply gesturing and he accidentally touched the face of the Foreman, the inquiry must be made what then would be the normal course of action after this took place? It would be reasonable under the circumstances for the Grievant to state to the Foreman, "I am sorry that I touched you, it was an accident". The Grievant at no time claimed that he made this explanation and apology to the Foreman. If he had done so and if the touching were entirely accidental in nature, the Foreman would not then have filled out a report alleging the striking. If the Grievant were simply gesturing, it is doubtful that this would have been done in such a violent manner that it would break the frame on the Foreman's glasses. The Hospital Report shows that the frame was broken. If it were simply a gesture, then there would be no contusion on the left brow and the left side of the bridge of the Foreman's nose, as shown by the Hospital Report. (Co. Ex. G).

In order to accept the Grievant's present version of the incident, the Arbitrator would have to ignore the admission the Grievant made in the suspension hearing when Union Representatives were present that he did "push" the Foreman away. Even if the testimony of all of the Company witnesses, Mr. Gregorczyk, Mr. Fabian, Mr. Penman, Mr. Scroggins, and Mr. Peters, were to be ignored, the Grievant's own version of the incident is not plausible. At one point he claims that he asked the Foreman why he was "so excited". At another point in his testimony he states that "neither of us were mad". He claims that he was "laughing" when he and the Foreman were holding the chain. It is evident that the Foreman had been correcting him with reference to his work performance. Although he claims that he was not given an opportunity to tell his story he also states that he refused to answer questions and did not state what later turned out to be one of his principal defenses, i.e., the reference to the provocative statement "damn Negroes". Certainly if he had such a defense he would have made this clear at the earliest possible time. It is difficult to explain why a responsible Company would indicate on a reply to this Company that the Grievant had been discharged for fighting if this were not true. The Grievant did not claim that he was unable to read. He stated that an eighteen-year old girl asked him questions and he gave the answers. It is difficult to believe that he would "forget" to mention an employer for whom he had worked for a considerable period of time. The only valid explanation is that he hesitated to have this Company learn that he had been discharged for fighting by this previous employer. The physical contact with the Foreman cannot be divorced from the in-

cidents just prior thereto. It is evident that the Grievant was disturbed by the Foreman's repeated orders to him and by the Foreman taking over and holding the chain. It is highly improbable that he then would be "laughing". It is doubtful that he would by an oversight insert a statement in his application with Inland Steel Company that he was farming in Mississippi from 1948 to 1953 when he actually was engaged in industrial employment principally with the employer that replied that he had been discharged. He testified that he had gone back to Mississippi to work on the farm for only a few weeks.

The overwhelming evidence is that the Grievant did deliberately strike the Foreman. It must be found that he struck the Foreman with a "roundhouse blow" of such force that it broke the frame on his glasses and caused a cut and contusion. He struck without warning. Because the Foreman then had his glasses on it could have caused severe injury to his eyes. This Arbitrator appreciates the vigorous defense made by the Union in this matter which constitutes the first time in many years that it has taken a case of this type to arbitration. Because of the great weight of the evidence, the Arbitrator however must find that the Grievant was discharged for proper cause.

AWARD

The grievance is denied.


Peter M. Kelliher

Dated at Chicago, Illinois

24th - day of September 1963.