In the matter of Arbitration

Between	Grievance No. 22-K-46
Inland Steel Company	Appeal No. 1194
and	Award No. 604
United Steelworkers of America Local 1010	

Appearances:

For the Company

T. J. Peters, Arbitration Coordinator, Labor Relations
J. L. Federoff, Assistant Superintendent, Labor Relations
J. W. Ryan, Senior Labor Relations Representative
T. L. Kinach, Senior Labor Relations Representative
J. B. Klukkert, Superintendent, Mold Foundry
J. S. Semens, Assistant Superintendent, Mold Foundry
C. E. Wilde, Supervising Industrial Engineer, Industrial Engineering
A. W. Grundstrom, Supervisor, Wage and Salary Administration

For the Union

Theodore J. Rogus, Staff Representative
Alexander W. Bailey, Chairman, Grievance Committee
Arthur E. Bannister, Aggrieved
McCurtis Goshay, Assistant Griever
Walter O. Hartman, Griever

The question raised by this grievance is whether the Company violated Article 9, Section 7 of the parties' collective bargaining agreement in certain specified weeks in October and November, 1969 when it paid grievant, who was scheduled as Foundry Craneman, the higher rate of Hot Metal Craneman for only those hours in which he handled hot metal.

The facts are not disputed. In the six weeks in question grievant was scheduled to work in the occupation of Foundry Craneman, but on several days in each of these weeks he was assigned part of the time to handle hot metal. The primary functions in the job descriptions of the two classifications are alike except in one particular. Both state that the employee operates an overhead crane to service foundry operations, but in the case of the Hot Metal Craneman there is included, in addition, the phrase "to handle hot metal." This difference has an important influence on their relative evaluations. They are in Job Class 9 and Job Class 13 respectively.

The Mold Foundry commenced operating in 1962. Since then a consistent

practice has been followed. The metal pouring is done largely on the second turn, and invariably a craneman is scheduled as Hot Metal Craneman on that turn. When the regular man is not available others have been so scheduled, including the grievant. On the other turns the Company schedules only Foundry Cranemen, but as and when it is found necessary to pour metal on those turns, the Foundry Craneman is upgraded and for the hours in which he is so occupied he is paid the rate of Hot Metal Craneman.

The union's position is that the only distinguishing feature of the Hot Metal Craneman occupation is that in addition to operating an overhead crane to service the foundry he is available to, and does, handle hot metal. It is the union's contention that when the Foundry Craneman is regularly called upon to handle hot metal as well as to service the foundry he is in all respects performing in the occupation of Hot Metal Craneman and should be paid accordingly.

The contract provisions cited by the parties do not give us clear guidance. They have some inherent inconsistency and this has led to areas of ambiguity.

The union relies on Article 9, Section 7. This section denies employees the right to claim that a wage rate inequity exists, but it stipulates that:

> "This does not preclude an employee from filing a grievance alleging that he is performing and meeting the requirements of a given job but is not receiving the established rate for that job."

The Company, on the other hand, relies on Article 10, Section 2, which in material part reads as follows:

> "An employee directed by the Company to take a job in an occupation paying a higher rate or rates than the rate of the occupation for which he was scheduled or notified to report shall be paid the rate or rates of the occupation assigned for the hours so worked. Where an employee scheduled or notified to report for an occupation is directed by the Company either at the start or during a turn to take for all or a part of that turn a job in an occupation paying less than the rate or rates of the occupation upon which he was scheduled or notified to report, he shall receive the rate or rates of the occupation on which he was scheduled or notified to report while performing such lower-rated work . . ."

The award cited by the union which most strongly favors its contention is that of Arbitrator Jacob J. Blair dated December 7, 1955 in Grievance No. SC-1, 1954 involving the South Chicago plant of Republic Steel Corporation. In that case employees qualified as both Mold-Prep Craneman and the higher-rated Stripper Craneman were scheduled for both jobs, on Saturdays

and Sundays, no one being scheduled on these days solely as Stripper Cranemen. These employees moved back and forth between the jobs, and the arbitrator ruled they were entitled to the higher rate for the entire eight-hour turn. Arbitrator Blair explained his findings by saying:

> "The facts of this case are clear in showing that the aggrieved employees were responsible for performing the full complement of duties of the Stripper Crane Operator at any time during the eight-hour shift. Unlike other conditions where men may, after starting their regular job, be assigned to another job for the remainder of their shift, and responsible only for the duties of the second job, in this case the men carried the full responsibilities for the higher rated job throughout the eight-hour shift. It follows from this that under Article IV, Section 5, the men are entitled to the Stripper Crane rate for those days in which they were scheduled on both jobs and also responsible for the full complement of duties of the Stripper Craneman."

The Company relies mainly on statements made in Inland awards. While none cited by either party is directly in point because of differences in the facts, as seen in the Republic award described above, there are some comments worthy of note. For example, there are some in Award No. 423 and also in Award No. 528 particularly its last paragraph. An award which generally favors the Company's position is that of Arbitrator Peter M. Kelliher in Youngstown Grievance No. C-236-61-A, decided April 9, 1962.

In the face of the inconsistency between the two cited contract provisions, how do we determine whether grievant was serving as Hot Metal Craneman and was improperly classified as Foundry Craneman, or was properly classified as Foundry Craneman and had no cause for complaint so long as he was given the rate of the Hot Metal Craneman for all hours in which he handled hot metal?

The evidence indicates that the Company has followed the practice complained of ever since the foundry was opened in 1962. The production of the foundry rose during the first four or five years, but has been at substantially the same level for the past five or six years. This uniform practice carried on for such a period of time is a persuasive sign that in respect to these two cranemen classifications in the foundry the practice followed by the Company is acceptable as in keeping with the contract requirements and amounts to the parties' own interpretation of the respective contract provisions. Otherwise, one would be justified in believing there would have been grievances prosecuted at Inland to compel the Company to observe the contract provisions which are now in Article 9, Section 7, rather than those now in Article 10, Section 2. And if such grievances had been disallowed then the assumption is that steps would have been taken in the several contract negotiations during these years to clarify or modify these contract provisions.

The basis for this holding is the established practice in the foundry under the conditions which have prevailed there for a period of years. If the conditions change in any material respect or degree, the ruling could easily go the other way, for the argument each side makes is plausible.

If the Company should discontinue scheduling a Hot Metal Craneman on the pouring turn, or if the volume of metal pouring increases so that there is in fact more than one pouring turn, or if the frequency of assignment of Foundry Cranemen to the higher classified work rises or if the work hours of the Foundry Cranemen are regularly or more heavily devoted to the distinguishing duties of Hot Metal Craneman, then another look would be in order to see whether the scales have not been tipped and whether the determination should not be made in line with Article 9, Section 7 rather than the section relied upon by the Company.

As has been pointed out in prior awards at Inland, it is well known that in the progression from lower to higher classifications the employee continues to perform many of the same duties he formerly performed. There is a discussion of this subject in Award No. 594 in which it was held that the fact that an employee is performing work of the same kind as is performed by the higher calssification does not mean that he should necessarily be paid the rate of the higher classification, but that if he were doing work of the kind peculiar to the higher classification that would be another matter.

AWARD

This grievance is denied.

Dated: June 8, 1972

David L. Cole

David L. Cole, Permanent Arbitrator

The chronology of this grievance is as follows:

Oral discussion (foreman)	11-11-69
Grievance filed	11-17-69
Step 1 Reply	12-4-69
Appealed Step 2B	12-11-69
Step 2B Reply	12-26-69
Appealed Step 3	1-2-70
Step 3 Hearing	2-11-70
Step 3 Reply	4-2-70
Appealed Step 4	4-7-70
Step 4 Hearings	12-1-70, 12-8-70, 1-12-71, 8-17-71 10-7-71, 10-21-71, 11-4-71, 1-18-72
Step 4 Minutes	2-10-72
Appealed to Arbitration	2-23-72
Arbitration Hearing	5-24-72