In the matter of Arbitration

Between	Grievance No. SUB-L-26-38 et al
	Appeal No. 1199
Inland Steel Company	Award No. 605
and	
United Steelworkers of America Local 1010	

Appearances:

For the Company

R. H. Ayres, Assistant Director, Industrial Relations
R. G. Pehlps, Manager, Coke Production
J. S. Mohr, Superintendent, Plant No. 2 Coke
J. T. Mareta, Superintendent, Production Control (Scheduling)
L. R. Barkley, Administrative Assistant, Labor Relations
T. J. Peters, Arbitration Coordinator, Labor Relations
E. Smoltz, Superintendent, Transportation
D. E. Johnson, Supervisor, Personnel Department
R. J. Wilson, Supervisor, Personnel Department
T. L. Kinach, Senior Labor Relations Representative
J. E. Sheehan, Assistant Manager, Employee Benefits
D. B. Drechsel, Staff Assistant, Employee Benefits

For the Union

Theodore J. Rogus, Staff Representative
Alexander W. Bailey, Chairman, Grievance Committee
Gavino Galvan, Secretary, Grievance Committee
Gavino Jimenez, Grievant
Robert Fenters, Witness

Citing parts 3.0 and 3.10 of the 1969 Supplemental Unemployment Benefit Plan as amended August 1, 1971, this grievance requests SUB pay for Gavino Jimenez, a switchman in the Transportation Department, for the weeks ending October 30 and November 20, 1971. In the Step 4 hearing the Union added Article 13, Section 17-g(1) of the collective bargaining agreement in support of this claim.

The Company denied grievant the SUB pay he requested on the ground that he was disqualified under the provisions of paragraph 3.5-c-(2) of the SUB Plan. Specifically, it is there stipulated that:

" An employee will be disqualified from re-

ceiving a Weekly Benefit if:

. . .

"c. His unemployment was a consequence of:

. . .

"(2) any strike, slowdown, work stoppage, picketing or concerted action at any operation of the Company, or of any labor dispute of any kind involving persons employed by the Company, when such action interferes with production or the ingress or egress of material or product at the operation where the layoff occurs. . ."

The Company's coal mine at Sesser, Illinois was closed down by a national coal strike on October 1, 1971 which continued for some six weeks. This caused a reduction in coke plant operations and blast furnace operations in order to conserve coal to avoid a wider shutdown of operations at the Indiana Harbor Works. This reduction in coke and blast furnace operations necessitated the cancellation of four scheduled Transportation Department jobs, causing the layoff of eight switchmen and four engineers. These layoffs were made in accordance with departmental seniority, and on October 23, 1971 grievant was one of those laid off.

He requested SUB weekly benefits or pay for the weeks ending October 30, November 13, 20 and 27, 1971, which the Company denied, but the grievance asks for such pay only for the weeks ending October 30 and November 20.

Until Step 4 the Union's position was that stated in the grievance, which is that the 'Company has not adequately demonstrated that they were justified in refusing SUB pay." In Step 4 the Union representative asserted the failure to provide work for the grievant was not due to the strike but rather to the Company's failure to exercise an option under paragraph 13.94 of the Agreement to assign grievant from the labor reserve list to a job in any seniority pool in preference to new hires, or to employees with less seniority who were filling labor reserve assignments. There was no evidence of new hirings during this period, and it must be assumed that the Union's point relates to employees with less plant service who were filling some labor reserve assignments.

The contention newly asserted by the Union in Step 4 as developed in its pre-hearing brief, practically acknowledges that the coal strike interfered with production at the steel plant. From this, by the specific terms of paragraph 3.5-a-(2) of the SUB Plan, it follows that grievant was disqualified from receiving the weekly benefits. There is no dispute over the fact that he was laid off for this reason.

The question then becomes, as the Union presents its case, should this disqualification be treated as neutralized if the Company could have provided work for grievant by exercising the option available to it under paragraph 13.94 of the collective bargaining agreement? (Article 13, Section 17g(1)) This section is as follows:

"g. Labor Reserve.

"(1) Employees laid off from any depart-

ment shall be placed on a labor reserve list to be maintained by the Personnel Department. In the event of requisitions for occupational openings, which are not filled by other employees in accordance with the provisions of this Article 13 (except Section 13-a and Section 18), in departments other than those to which labor reserve employees have been attached, the Company may, during the first thirty (30) days of layoff, assign employees on the labor reserve list in preference over applicants for employment (new hires) for jobs in any seniority pool in the plant without regard to continuous service. After thirty (30) days of layoff the Company shall assign employees on the labor reserve list in preference over applicants for employment (new hires) for such occupational openings in seniority pools of the plant based on their plant continuous service provided they are qualified. The provisions of Subsection 17-f shall apply to employees assigned under this Subsection 'g' except as provided in (2) below."

It will be observed that during the first 30 days of layoff the Company may assign employees on the labor reserve list in preference to new hires and without seniority considerations, but that after 30 days the Company shall assign in this manner. The pointed difference between the permissive and the mandatory is significant. One may not in arbitration disregard this contractual difference and hold that "may" means "must." It should also be noted that after 30 days the grievant was assigned to labor work.

The remaining question relates to the length of time one may say this coal strike caused grievant to be unemployed. The strike ran from October 1 through November 15, 1971. Is it fair to say that a coal strike which ended on November 15 should be permitted to disqualify a steelworker from SUB pay for the balance of that week?

The settlement of the coal strike on November 15 did not mean that the shortage of coal for coking at the Indiana Harbor works was alleviated on that very day. The facts may vary from case to case, but on the evidence in this case it is clear that in the week ending November 20 operations in the steel plant were interfered with or impeded by a lack of coal due to the strike of the Company's coal miners.

AWARD

This grievance is denied.

/s/ David L. Cole

Dated: June 30, 1972

David L. Cole, Permanent Arbitrator

The chronology of this grievance is as follows:

Oral discussion	12-7-71
Grievance filed	12-8-71
Local Representative Meeting	1-6-72
Minutes of Local Meeting	1-25-72
Appealed to SUB Step 4	1-28-72
Step 4 Hearing	3-3-72
Minutes of Step 4 Hearing	3-23-72
Appealed to arbitration	3-23-72
Arbitration hearing date	6-20-72