

In the Matter of Arbitration

Between)
Inland Steel Company)
and)
United Steelworkers of America)
Local 1010)

Grievance No. PIB-L13-36
Appeal No. 1204
Award No. 610

Appearances:

For the Company

Sander Wirpel, Assistant Manager, Industrial Relations
R. H. Ayres, Assistant Director, Industrial Relations
Robert J. Wilson, Supervisor, Insurance and Benefits
L. R. Barkley, Administrative Assistant, Labor Relations
T. J. Peters, Arbitration Coordinator
R. J. Stanton, Assistant Superintendent, Labor Relations
M. R. Zarowny, Senior Claims Administrator, Insurance and Benefits
T. L. Kinach, Senior Representative, Labor Relations
W. P. Boehler, Representative, Labor Relations

For the Union

Theodore J. Rogus, Staff Representative
Jaime Martinez, Insurance Representative
William E. Bennett, Chairman, Grievance Committee
Gavino Galvan, Secretary, Grievance Committee
Gene Cieslak, Committeeman
Domingo R. Camarillo, Grievant

Grievant, Domingo Camarillo, was injured in a fall at his home on Saturday, June 3, 1972, after working at the plant on the 8 a.m. - 4 p.m. turn. He remained off the job until July 17, 1972, but did not submit his Sickness and Accident (S & A) claim form until July 3, 1972.

The Program of Insurance Benefits (PIB), Section 2.0, stipulates:

"In order for you to be eligible for benefits the Company must receive written notice of your claim within 21 days after your disability commences, but this requirement will be waived upon showing of good and sufficient reason that you were unable to furnish such notice or have it furnished by someone else on your behalf."

This stipulation was added to the PIB effective August 1, 1971. An elaboration was tacitly agreed upon by the Company's insurance carrier, Equitable Life Assurance, and the United Steelworkers' Insurance Pension and Unemployment Benefits Department and incorporated into a letter sent to various steel companies including Inland on October 14, 1971. In this letter the following appears:

"Normally it is anticipated that a disabled employee will obtain or have someone on his behalf obtain a sickness and accident claim form from the Company and complete his portion of the form and have his physician complete the attending physician's portion of the form and return it to the Company within 21 days of the commencement of his disability. To remind the employee of the notice requirement, appropriate instructions will be included on the claim form. If an employee is unable to comply with this procedure he would be expected to notify the Company in writing of his disability before the end of the 21-day period.

"We understand that it was your intention in adopting this new provision to encourage prompt notice of an employee's claim for sickness and accident benefits so that the evaluation of the claim, including any necessary investigation of the medical and other factual aspects of the claim can be made in an expeditious manner. Accordingly, we understand that you do not intend that a claim be denied for failure to comply with the notice requirement if such failure did not interfere with the ability to establish the medical and other factual aspects of the claim."

Grievant's claim for S & A benefits was not received by the Company until July 3, 1972, and it was rejected by the Equitable on July 28 because grievant had not complied with the provisions of Section 2.0 of PIB.

Acknowledging that the claim was filed late, the Union urges that it should have been honored because grievant had good and sufficient reason for this lateness. The reason is that his physician, Dr. Plinio Romero after seeing him on June 3, 1972, left on his vacation without telling grievant he was doing so, and when grievant went to his office for treatment on June 9 he found another physician there, Dr. Eulalia Morfa, who saw him that day and again on June 21, but declined to complete and execute the S & A claim form because she had not been instructed by Dr. Romero to do so.

Grievant did not say he was unaware of the contractual requirement that he file his written claim with the Company within 21 days after his disability starts in order to be eligible for benefits. He has presented S & A claims before, and he did not deny that he was reminded by a clerk in the Company's insurance office that such claims must be filed on time, or that the claim form which he picked up has imprinted on it in capital letters:

"NOTE: IMPORTANT - FILE THIS NOTICE OF CLAIM WITH THE COMPANY WITHIN 21 DAYS OF COMMENCEMENT OF DISABILITY TO MEET THE ELIGIBILITY REQUIREMENTS OF PARAGRAPH 2.0 OF YOUR PROGRAM OF INSURANCE BENEFITS' BOOKLET."

Nor did the Union dispute the statement of the Company concerning the origin and purpose of the October 14, 1971 letter described above.

It was not asserted that grievant was incapable of having the claim form filled out and delivered to the Company. His injury, sustained at his home, first called a contusion of the left wrist by Dr. Romero and subsequently tendonitis of the left wrist, was not of the kind to confine him to his home or to render him immobile.

Moreover, it was not denied that grievant failed to notify the Company in writing of his disability within the 21-day period when he says he was unable to comply with the filing procedure set forth in Paragraph 2.0. The letter of October 14, 1971 specifies this.

Grievant's injury was not of a serious nature. The Company or its insurance carrier might well have desired to check on him in order to verify his disability. This is a right spelled out in the October 14 letter. But in the absence of a claim form or notification in lieu thereof until some time after the 21-day period elapsed, the opportunity to examine grievant in the earlier stages of his disability was denied the Company.

There was no evidence on behalf of grievant indicating that he made more than a most perfunctory attempt to have either Dr. Romero or Dr. Morfa fill out the form during the 21-day period, and no explanation of any substance was offered for not giving the Company the substitute kind of notification mentioned above.

Paragraph 2.0 clearly requires S & A claims to be given to the Company within 21 days. Latitude is provided for an employee "who is unable to furnish such notice or have it furnished by someone else on [his] behalf." For this waiver to come into play the employee must show good and sufficient reason. By way of example, incapacitation leading to confinement in bed or hospital or leading to immobility has frequently been accepted as such a reason. It takes more than a mere assertion of reason, however, to overcome the clear contractual obligation to file the claim, or have someone do so on his behalf, or as set forth in the October 14, 1971 letter, to give the Company written notification in lieu of the formal claim.

Grievant has not shown good and sufficient reason in this instance for failing to comply with the rules of which he was fully aware.

AWARD

This grievance is denied.

Dated: November 7, 1973

/s/ David L. Cole

David L. Cole, Permanent Arbitrator

The chronology of this grievance is as follows:

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| Grievance filed | August 31, 1972. |
| Meeting with Local Union Representative | September 12, 1972 |
| Meeting with Representative of District Director | March 8 and May 11, 1973 |
| Appeal to arbitration | June 22, 1973 |
| Arbitration hearing | October 15, 1973 |
| Award | November 7, 1973 |