In the Matter of Arbitration

Between	
Inland Steel Company	Grievance No. 9-M-48 Appeal No. 1228 Award No. 631
and	
United Steelworkers of America, Local 1010	Opinion and Award

Appearances:

For the Company

William P. Boehler, Arbitration Coordinator, Labor Relations
Robert H. Ayres, Manager, Labor Relations, Industrial Relations
Donald F. Kilburg, Labor Relations Representative
George Lundie, Director, Safety and Plant Protection
Paul E. Shattuck, Superintendent, 10" and 14" Mills
Kenneth C. Fehlberg, Assistant Superintendent, 10" and 14" Mills
Arthur L. Willison, Electrical Foreman, 10" and 14" Mills
Henry Rooney, General Foreman, 10" Mill
Donald Ryder, Foreman, 10" and 14" Mills
Lester R. Barkley, Administrative Assistant, Labor Relations
Timothy L. Kinach, Senior Labor Relations Representative

For the Union

Theodore J. Rogus, Staff Representative
Joseph Gyurko, Chairman, Grievance Committee
William Gailes, Vice Chairman, Grievance Committee
Walter M. Green, Secretary, Grievance Committee
Clifford Scott, Grievance Committeeman
Floyd Bailey, Grievant

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This grievance challenges as unjust and unwarranted the discharge of Floyd Bailey, who is in the Craneman and Crane Hooker Sequence in the 10" Mill Department. Grievant was suspended on March 12, 1976, subject to discharge, because on March 11 he had "violated the 'General Safety Rules For Overhead Crane Operators' " and because of his "overall unsatisfactory personnel record." After a hearing and investigation on March 18 and 19 he was discharged on March 26, 1976.

The incident which triggered this discipline was the manner in which Grievant boarded No. 4 Crane in violation of the Crane Safety Rules. He had been assigned that morning to take training on the No. 5 Crane, but this crane became inoperative because of an electrical malfunction. The No. 5 craneman left the crane but told Grievant to remain with this crane to operate the controls for the electricians making the repairs if necessary. There was nothing for Grievant to do, however, and becoming bored, as he testified, he decided on his own volition to leave this crane and move over to Crane No. 4.

He proceeded to board Crane No. 4 for the purpose, he said, of familiarizing himself with its operations. The manner in which he did so was contrary to posted and well-known safety rules in a number of serious respects. It is maintained by Management that he did not signal or notify the No. 4 craneman that he was about to board the crane. He approached the crane by walking toward it on the crane runway, and not boarding at a landing area. He then climbed up to the bridge of this crane, walked along this bridge, and climbed up to the trolley above the crane cab. At this point the craneman began to move the crane by bridging south with a lift of material, and Grievant hurried across the top of the trolley and down a 10-foot ladder into the cab. The craneman has stated that he was unaware of Grievant's presence until he finished placing material in the racks at Bay 24 and then saw Grievant climbing down the ladder into the cab.

The safety rules violated by Grievant, as contended by the Company, were (1), the rule forbidding boarding until after the operator is notified, or going on a crane runway without the foreman's permission; (12), getting on a crane while in motion; (13),boarding without waiting for the operator to pull the main switch and present himself in view of the employee; (14), boarding other than at a prescribed area; (15)and (16), walking along crane runway, except in emergency.

Evidence submitted by the Company definitely supported its finding of violation of the Crane Safety Rules. Grievant's insistence that he signalled the operator, that the operator saw him about to board are obviously inaccurate. The electrical foreman and the No. 4 craneman made unqualified statements contradicting Grievant in these respects. There can be little question that he endangered himself seriously by failing to observe the safety rules.

Grievant's position is that the Company has not sustained its burden of proof that this discharge was for cause, contending that employees frequently board cranes in the way he did and no discipline has ever been applied for this, citing the electricians and maintenance employees who service cranes when they need attention. His explanation of the action by the Company is that he had just been discharged and then reinstated without pay after an absence of four months, the offense being sleeping on the job on November 4, 1975, and that some of the supervisors resented the decision to reinstate him and were out to get him. The settlement of

the previous discharge grievance, (Grievance No. 9-M-38), was reached in Step 4 and the statement declared, in part, that the grievant "was apparently sleeping," which is a serious violation of Plant Safety Rules, but that in light of certain extenuating circumstances favorable to the grievant, it was agreed to give him the benefit of the doubt. The 4th Step summary declared that he was "reinstated without back pay and given one final chance to demonstrate that he can be a responsible employee," and: "The Company Step 4 Representative cautioned that any further violation of Company rules or regulations will result in the grievant's termination from the Company's payroll." The Union representative accepted the Company decision as full and final settlement.

He returned to work on March 10, 1976, and because of his long absence was assigned for training or familiarization to the No. 5 Craneman. The incident causing his discharge occurred on the following day.

In January, 1976, while Grievant was out of work, a fatal crane accident took place in Plant 2 Mills. The Union's position is that the Company tightened up the enforcement of safety rules thereafter but that Grievant was not aware of this, having been out of the plant since November, 1975, and he assumed there would be the same laxity as theretofore.

In discharging him, the Company stated that it was in part caused by his overall unsatisfactory personnel record. His record has not been good. He has been reprimanded or suspended five times for absenteeism, and he has been disciplined once for being out of his assigned area, once for insubordination, once for leaving the plant without authorization, and twice for sleeping in the plant (the last time being the incident in November, 1975 for which he was penalized by severe loss of work and pay.

The essential facts are clear. Although being given a final chance to show that he can be a responsible employee, within one day after his reinstatement, Grievant knowingly ignored crane safety rules which were prominently displayed and with which he does not claim to have been unfamiliar. His explanation that at other times these rules had not been strictly enforced, was not convincing. He was relying to a considerable extent on the practice with respect to maintenance men, which would include electricians. But such employees are excluded from some of the boarding rules applicable to other employees, since it is their function to service or repair cranes that are out of order and often immobilized. Moreover, the Company has a clear obligation under the agreement and under the law to protect its employees from known safety hazards.

The settlement of Grievance No. 9-M-38 should have been sufficient warning to him that he would be watched. He was explicitly being given one final chance to demonstrate he can be a responsible employee. As a responsible employee he should certainly not have assumed the right to ignore well-publicized safety rules.

At our hearing Grievant maintained he had signalled the No. 4 crane-

man before boarding, yet in Step 3 it was acknowledged by the Union on his behalf that the crane was in motion while he was boarding it, and this corroborated the craneman's statement that he had not received any signal from Grievant and was not aware of Grievant until he saw him descending the ladder from the trolley to the cab.

That the Company saw the need of strict enforcement of the safety rules after the January accident in No. 2 Mills, and after there had been a number of fatalities at other steel plants, does not excuse Grievant from conscientiously observing the Company's safety rules on the second day after his reinstatement upon the conditions agreed upon after his lengthy disciplinary suspension.

There is no doubt on all the credible evidence that there was good cause for discipline. It may be true that one or more supervisors were disturbed because he had been reinstated after his previous offense, but there has been no persuasive showing that they were fabricating any evidence. The only question is whether discharge was too severe a penalty.

Under all the facts and circumstances, one must conclude that this penalty was justified. There is no indication that another last chance would be any more effective than the one given him after his serious loss of four months' pay starting in November, 1975. Not only does his poor personnel record suggest this, but his unsupported insistence at the hearing that he was being treated in a retaliatory manner by supervision, and his repeating of some misstatements as to the craneman's knowledge that he was boarding the No. 4 Crane suggest strongly that he still feels free to ignore with impunity rules applicable to all employees.

AWARD

This grievance is denied.

Dated: October 22, 1976

/s/ David L. Cole

David L. Cole, Permanent Arbitrator

The chronology of this grievance is as follows:

Grievance filed (Step 3)	March 30, 1976
Step 3 hearing	April 7, 1976
Step 3 minutes	April 27, 1976
Step 4 appeal	May 6, 1976
Step 4 hearing	May 19, 1976
Step 4 minutes	July 12, 1976
Arbitration appeal	July 23, 1976
Arbitration hearing	October 11, 1976
Award issued	October 22, 1976