PHIL KING

In the Matter of the Arbitration Between

INLAND STEEL COMPANY

AND

UNITED STEELWORKERS OF AMERICA
AND ITS LOCAL UNION 1010

Grievance No. 3-M-32
Appeal No. 1246
Award No. 649

INTRODUCTION

An arbitration hearing between the parties was held in Harvey, Illinois, on August 23, 1978.

APPEARANCES

For the Company:

Mr. T. L. Kinach, Senior Labor Relations Representative

Mr. W. P. Boehler, Arbitration Coordinator, Labor Relations

Mr. Robert H. Ayres, Manager, Labor Relations, Industrial Relations

Mr. G. Lundie, Director, Safety and Plant Protection

Mr. A. A. Bracco, Superintendent, Plant No. 3 Coke Department

Mr. T. J. Peters, Assistant Superintendent, Labor Relations

Mr. W. Jannausch, Mechanical General Foreman, Plant No. 3 Coke Department

Mr. K. Gerhart, Mechanical Turn Foreman, No. 11 Battery Coke Department

Mr. E. Layton, Labor Foreman, Field Forces Department

Mr. J. Bokash, Safety Engineer, Safety Department

Mr. M. S. Riffle, Senior Labor Relations Department

For the Union:

Mr. Theodore J. Rogus, Staff Representative

Mr. Joseph Gyurko, Chairman, Grievance Committee

Mr. Don Lutes, Jr., Acting Chairman, Grievance Committee

Mr. Walter Green, Secretary, Grievance Committee

Mr. John C. Porter, Acting Secretary, Grievance Committee

Mr. Buddy Hill, Griever

Mr. Jimmie Freemann, Griever

Mr. Fred Dickerson, Assistant Griever

Arbitrator:

Mr. Bert L. Luskin

BACKGROUND

Forty-two mechanical employees who had been laid off from Plant No. 4 Mechanical Department were assigned to perform mechanical functions at Plant No. 3 Coke Department. Those employees had worked at "C" Battery Preheat on February 7, 8 and 9, 1977. Shortly after the start of the 7:30 A.M. turn on February 10, 1977, a group of ten Mechanical Department employees (who were among the forty-two reassigned employees) came to the General Mechanical Foreman's office. One member of the group informed the General Mechanical Foreman (Jannausch) that they would not work at the "C" Battery Preheater because the area was unsafe due to falling ice. When asked whether any specific area was unsafe, the response was: "All over." The reference to "all over" was to the Preheater on which they had worked during the first three days of the week. The one person who spoke with the General Mechanical Foreman requested relief. The General Mechanical Foreman thereupon instructed a foreman to prepare the

timecards and to permit all members of the group to leave the plant. They left in a group and the ten employees thereafter filed a grievance contending that they had been relieved from the Preheater and had not been assigned to other work. They asked that they be compensated for the shift of work which they were caused to lose.

The grievance was denied and was thereafter processed through the remaining steps of the grievance procedure. The issue arising therefrom became the subject matter of this arbitration proceeding.

DISCUSSION

The Company contended that it was in full and complete compliance with the procedures set forth in Article 14, Section 6, of the Collective Bargaining Agreement. The Company contended that it had made "reasonable provisions for the safety and health of its employees at the plant" and that conditions existing at the "C" Battery Preheat on February 10, 1977, were similar to conditions which had existed on the preceding days of the week and were similar to conditions which existed on February 11, 1977, when two safety inspections took place. The Company contended that Union representatives were present on both inspections that occurred on February 11, 1977, and Union representatives conceded on February 11, 1977, that they saw no existing conditions which would have constituted a violation of the provisions of Article 14, Section 6. The Company contended that on February 11, 1977, an Osha inspector, responding to a claim of "imminent danger," made an inspection of the area in question and concluded that there was no imminent danger in existence. The Company contended

that on February 11, 1977, Union safety representatives conceded that hazardous areas had been flagged and safety men were assigned to keep employees out of those areas where falling ice might endanger the safety and well being of employees working in those areas.

The Company contended that some six employees who had come to the area along with the ten grievants who left work on February 10, 1977, continued to work on February 10 and completed their shift of work while assigned to the same areas from which the grievants had requested relief.

The Company contended that at approximately 9:30 A.M. on February 10, 1977, a second group of employees questioned the conditions and evidenced concern because they had learned that the grievants had been relieved from their assignments. The Company contended that the second group of employees was assured that conditions were not unsafe and that steps had been taken to guard against injuries caused by falling ice. The Company contended that the second group of employees accepted the assurances of the superintendent of the Plant 3 Coke Department, returned to work and encountered no problems of any type that could be construed as a hazard within the meaning of the term as used in Article 14, Section 6.

The Union contended that conditions on February 10, 1977, were different from conditions which had existed on February 9, 1977, and were different from conditions that affected the grievants on February 11, 1977. The Union contended that after the grievants had been relieved, steps were taken to knock off or burn off ice formations from the areas in question and additional

personnel had been assigned for ice removal, to flag off dangerous areas and to act as safety men. The Union contended that on February 11, 1977, it became evident that a large amount of ice had been burned off or knocked off from the dangerous areas and the conditions which existed on February 11, 1977, were substantially different from the conditions which existed on February 10, 1977. The Union contended that shortly before the grievants had requested relief, an employee named Early had been struck by a piece of falling ice and had suffered head injuries which verified the belief of the grievants that a dangerous condition existed which justified their relief from their respective assignments.

The evidence with respect to the injury sustained by an employee named Early is inconclusive. When the area was examined, there was no evidence of ice on the ground. Early was unsure of the cause of his injury. The area where Early was injured was not one where the grievants would have walked while entering or departing from the Battery.

The Company followed its customary procedures when it put into effect its winter schedule of assignment of forces for ice and snow removal. On or about January 1, 1977, the Company assigned a force of approximately 56 employees to the area in question. That group of employees was divided among all three shifts and their primary function was to burn off ice formation from the Battery with "hog burners" and to knock off ice from areas where ice had formed. That same force was called upon to flag off dangerous areas, act as safety men and to make certain that employees working in the area would be kept away from areas that would be exposed to hazards of falling ice. That procedure is a

normal, customary form of winter operation. The evidence is conclusive in many respects. The Company had arranged to have areas exposed to falling ice roped off, marked with flags and employees were assigned to those areas to keep other employees from using those areas as forms of access to their respective work assignments.

The ten grievants had reported prior to the start of the shift. They congregated and spoke together for some period of time, after which they moved in a group to the General Foreman's office where they complained of conditions and asked for relief. It would not have been possible for all of the grievants to have reported to their respective work positions and to have determined that conditions at their work site were dangerous or would have exposed them to the danger of falling ice. What emerges from the evidence in the record is the fact that the grievants would have had to proceed to their respective work positions at the third, fourth or fifth level. They could have entered the Battery and walked up through an interior stairway where they would have been completely protected from falling ice. Their work areas would have been under roof and there would have been no danger of exposure to falling ice. It would appear from the testimony offered by several of the grievants that their real and primary concern was the problem that they faced in walking to the area where they would enter the stairway.

Approximately 65 employees were regularly assigned to the Battery on that turn. The grievants were extra employees who had been laid off from their work assignments and whose superintendent had requested that their services be utilized at the Coke Battery. The superintendent of the Coke Battery

agreed to utilize the services of those laid-off employees and to assign them to the performance of maintenance functions which had initially been scheduled for performance at a much later point in time. It would appear that the grievants' lack of familiarity with the work area and the normal conditions inherent in the operation during winter months caused them to become unduly concerned. The Company followed the procedures that they had followed for many years and the Company took reasonable precautions to provide for the safety and well being of any employee whose work assignment required that he be in the area of the "C" Battery.

The Company completely complied with the requirements of Article 14, Section 6. The grievants (at their request) were relieved from the job. They did not suffer any loss of their right to return to the job, since they did return and did work on the following day (February 11, 1977). The grievants were extra employees and there were no other assignments available for them on February 10, 1977. The Contract would require that they be compensated for the shift of work which they were caused to lose only in the event that the Company (or the arbitrator) concluded that "...an unsafe condition within the meaning of this Section existed...."

The Union contended that the job description for these grievants does not require that they work under conditions that would be hazardous due to falling ice. The fact remains that they were not being asked to work under conditions where they would have been subjected to falling ice. All of the grievants were assigned to work in the same areas where they had worked during

the early part of the week. Their assignments would have placed them under roof and they would not have been exposed to falling ice from the Battery once they had reached the stairway and had started their walk to their assigned positions by means of an available interior stairway. Their route of access to the Battery was safeguarded by flagged-off areas, and any areas determined to be dangerous were posted by safety men assigned to perform that function as a normal part of the duties of the field forces.

When safety inspections were conducted on February 11, 1977, under conditions where the weather was similar to the weather conditions on February 10, 1977, no specific dangerous areas were noted and areas where falling ice might be considered dangerous were, in fact, flagged off and safety men were in the areas.

The arbitrator must, therefore, conclude that the conditions which existed on February 10, 1977, were neither unsafe nor unhealthy "beyond the normal hazard inherent in the operation...." The Company permitted the grievants to be relieved from the job. They returned to the job on the following day and the Company had no contractual obligation to pay the employees for the shift of work on February 10, 1977.

For the reasons hereinabove set forth, the award will be as follows:

AWARD NO. 649

Grievance No. 3-M-32

The grievance is hereby denied.

Bert L. Luskin
ARBITRATOR

October 4, 1978

CHRONOLOGY

Grievance No. 3-M-32

Grievance filed (Step 3)	March 18, 1977
Step 3 Hearing	April 21, 1977 April 22, 1977
Step 3 Minutes	July 28, 1977
Step 4 Appeal	August 16, 1977
Step 4 Hearing	December 1, 1977 April 24, 1978 June 1, 1978
Step 4 Minutes	July 11, 1978
Appeal to Arbitration	July 5, 1978
Arbitration Hearing	August 23, 1978
Award Issued	October 4, 1978