

Award No. 661  
In the Matter of the Arbitration Between  
INLAND STEEL COMPANY  
AND  
UNITED STEELWORKERS OF AMERICA  
AND ITS LOCAL UNION 1010

Grievance No. 7-N-26

Appeal No. 1262

Arbitrator: Burt L. Luskin

April 30, 1979

#### INTRODUCTION

An arbitration hearing between the parties was held in Harvey, Illinois, on April 16, 1979.

#### APPEARANCES

For the Company:

Mr. T. L. Kinach, Arbitration Coordinator, Labor Relations

Mr. Robert H. Ayres, Manager, Labor Relations

Mr. M. J. Panagiotis, Assistant Superintendent, Plant No. 2 Mills

Mr. D. E. Eldredge, Mechanical General Foreman, Plant No. 2 Mills

Mr. T. Newcomb, Mill Foreman, Plant No. 2 Mills

Mr. J. Sexton, Turn Foreman, Plant No. 2 Mills

Mr. P. Klingensmith, Mechanical Technician, Plant No. 2 Mills

Mr. J. E. Smith, Assistant Director, Safety

Mr. L. R. Barkley, Administrative Assistant, Labor Relations

Mr. W. W. Gillespie, Labor Relations Coordinator

Mr. J. T. Surowiec, Labor Relations Representative

For the Union:

Mr. Theodore J. Rogus, Staff Representative

Mr. Joseph Gyurko, Chairman, Grievance Committee

Mr. Alexander Jacque, Committeeman

Mr. Robert R. Jones, Grievant

#### BACKGROUND

Robert R. Jones was employed by the Company on February 16, 1971. He completed an apprenticeship, became a mechanic, and his assignment was to the mechanical section of the Plant No. 2 Mills Department.

On August 11, 1978, Jones was scheduled to work as a mechanic on the 4 - 12 turn. Supervision was informed that repair work would have to be performed on a flying shear at the No. 2 billet mill. A breakdown on the shear had occurred at 6:15 P.M. and the initial work involved the tightening of knives.

The work was performed by a five-man crew under the supervision of temporary Foreman Sexton. The foreman noted that there was a problem involving the bottom cam roller. He also noted that a hose on the swing roller would either have to be replaced or would have to be restored to its original position. Various tasks were assigned to members of the crew and Jones was instructed to repair or replace the hose as needed. The electrical controls on the shear were locked out. In order for Jones to perform the work on the hose he had to enter an area designated as the access pit located beside the shear roll table.

Prior to the commencement of the repair work Jones asked and received permission to go to the ARA canteen truck which was due in the area at about that time and to make some food and cigarette purchases.

While Jones was away, repair work on other portions of the shear were started. During the course of the repairs, the mechanical technician and the foreman concluded that the shear would have to be "jogged" for a distance of approximately 1/4 inch in order that it could be properly lined up for the cam replacement.

The electrical controls were opened, the shear was activated and "jogged" and shortly thereafter Jones approached temporary Foreman Sexton. He confronted Foreman Sexton and he was thereafter charged with directing profanity toward Sexton, threatening "to get" Sexton, and threatening to kill Sexton. He was also charged with threatening to break Sexton's arm in "eighteen pieces," and he was also charged with telling a foreman who approached the area (Newcomb) to "go to hell."

Jones was directed to leave the plant and he was allegedly informed that he would be escorted from the plant by a member of the Plant Protection Department. Jones was charged with refusing to wait for the arrival of a member of the Plant Protection Department and he was charged with disobeying direct

instructions of a foreman (Newcomb) to await a member of the Plant Protection Department before leaving the plant. Jones was charged with disobeying a direction of supervision when he left the plant unescorted. An investigation of the incident was conducted by the Assistant Superintendent of the Department. A decision was thereafter made to suspend Jones for five days preliminary to discharge. The suspension was based upon Jones' conduct on August 11, 1978, as well as his unsatisfactory work record based upon reprimands and suspensions dating back to September, 1973.

A suspension hearing was held on August 18, 1978, pursuant to the provisions of Article 8, Section 1. On August 28, 1978, Jones was informed that he would be given one final chance to remain in employment with the Company. He would be required to meet with his Department Superintendent for the purpose of a review of Jones' record. Time lost as a result of the suspension would be considered to constitute a period of disciplinary time off from employment. Jones returned to employment and on August 30, 1978, a grievance was filed protesting the suspension which had involved a period of thirteen days between the date of the suspension and his return to employment. Jones requested that he be compensated for the time lost from work. 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 testimony relating to the fact situation which led to Jones suspension from employment is in sharp conflict. All witnesses who testified were in agreement that Jones had been assigned to repair or replace a hose while repairs were being made to a flying shear. All witnesses were in agreement that Jones received that assignment as part of a five-man crew making repairs to the shear, and all witnesses were in agreement that Jones asked for permission to go to a canteen truck and make some purchases. Jones not only made some purchases for himself, but he made purchases for other members of the crew including cigarettes for the temporary Foreman (Sexton).

Jones testified that he was the only member of the group to put a lock on the switch which would have prevented the shear from being activated. Jones testified that he gave a fellow employee the key to his lock in the event that it became necessary to operate the shear while he was away from the area. Jones testified that when he returned (after visiting the canteen truck) he neglected to retrieve his key and he proceeded to the access pit and commenced to work on the hose without determining whether his key had been used to open the lock or whether the switch was still in a locked-out position.

Jones testified that the shear was "jogged" twice. He testified that when the shear was jogged for the first time, he called out a warning that he was in the pit in order to make certain that the shear was not activated again. He testified that he heard someone (whom he believed to be the mechanical technician) respond by calling out, "He's in the hole, he's clear, run it." He testified that the shear was then jogged a second time. He testified that he emerged from the pit, angry, frightened, badly shaken, nervous and excited. He testified that, although he could not recall everything that he may have said to temporary Foreman Sexton, he was certain that he did not say that he would "kill" the foreman, and any statement made that he had threatened the life of the foreman would be a "lie."

It was Jones' contention that Foreman Sexton was in a hurry to complete the repairs and that Foreman Sexton neglected to check the shear and to make certain that anyone working immediately adjacent to the shear was clear before the shear was jogged. Jones testified that he heard the mechanical technician call out "f--k him, he's down there, go ahead," immediately preceding the second jogging of the shear.

Jones contended that his fellow members of the crew were wrong when they did not individually lock out the shear. He testified that the mechanical technician signaled to jog the shear a second time when he knew that Jones was "in the hole." He testified that Foreman Sexton was negligent when he ordered Jones' lock to be removed from the switch and to signal to have the shear jogged when he knew that Jones was in the pit after having seen Jones enter the pit after he returned from making purchases at the canteen truck. Jones testified that the summer employee to whom he had given his key was wrong in allowing anyone to use Jones' key to remove the lock without personally checking Jones' whereabouts. Jones denied that salaried Foreman Newcomb had ordered him to wait for the plant guard to escort him from the plant.

The Union offered the testimony of a member of the crew (Herbert). That witness testified that Jones had locked out the switch. He testified that he was present at the shear when it was jogged and he testified that he (Herbert) had been told by Foreman Sexton to "be careful." He testified that he heard someone yell out to stop the shear and he testified that he heard the mechanical technician respond by calling out, "That's OK, F--k him, he's in the clear," after which the shear was jogged a second time. He testified that Jones came out of the hole and that Jones was excited and irate. He testified that he had not seen Jones in the pit,

but that he saw him come out and he testified that he heard Jones say to Sexton, "You're a freak, you're trying to kill me."

He stated that after a pause he heard Jones say to Sexton, "I'll break your arm and give it to you in 18 pieces." He testified that he (along with other members of the crew) had been told by Foreman Sexton that the shear was about to be jogged.

The Company offered the testimony of temporary Foreman Sexton. That witness testified that he had never been told by Jones that Jones had given the key to his lock to a helper named Fountain. He testified that when it became necessary to jog the shear he directed the crew to have any locks on the switch removed. He testified that some crew members reported that the switch had been unlocked. He testified that he did not see Jones in the pit before the shear was jogged. He testified that he checked the access pit, saw no one there, and informed other members of the crew who were in the area to "stay clear." He testified that he ordered one man to stay in position to signal when the shear had been lined up and he testified that he was in the pulpit from where the shear would be jogged. He testified that after the shear had been jogged once he (Sexton) emerged from the pulpit and was approached by Jones who was angry and who shouted, "You s.o.b., you tried to kill me, now I'll kill you, you m-- f--." Foreman Sexton testified that he raised his hand in an effort to attempt to calm Jones and Jones then responded, "If you stick your finger in my face, I'll break your arm off and give it to you in 18 pieces." He testified that Jones was serious, angry and agitated when he made that statement. Sexton testified that, in his opinion, if an employee is in the hole when the shear is activated, the man would be in danger. He testified that if the shear was jogged, anyone in the hole would have undergone a "scary" experience. He testified that when Jones' lock was removed, he thought that the lock had been removed by Jones. He testified that he did not take a head count before ordering the shear jogged. He testified that he was present when Foreman Newcomb attempted to calm Jones. He testified that he heard Foreman Newcomb instruct Jones to wait for the plant guard and that Jones left in defiance of that order and direction.

Foreman Newcomb testified that he heard Jones call Foreman Sexton a "m-- f--," and that he (Jones) "would kill him." He testified he heard Jones say to Sexton that, "I'll break your arm off and give it to you in pieces." He testified that after he directed Jones and Foreman Sexton to go to his (Newcomb's) office, Jones said to him, "Oh, you want to get into it too," and after he asked Jones to repeat what he had said, Jones responded by saying, "You go to hell." He testified that he repeatedly ordered Jones to remain in the area and wait for a plant guard, but that Jones walked off. He testified that he had distinctly heard Jones say to Sexton, "I'll get you," and he heard Jones say to Sexton, "I'll kill you."

The Company offered the testimony of its mechanical technician. That witness testified that he was at the shear when it was jogged. He testified that he looked in the hole and did not see Jones. He testified that he did not hear anyone call out and that he did not order the shear jogged a second time. He denied making the statement, "Go ahead, he's in the clear," and he testified that he did not hear the words that Jones used when he approached Foreman Sexton.

The mechanical technician (Klingensmith) testified that he knew what Jones' assignment was, but that he did not know where Jones was when the shear was jogged. He testified that he was angry with Jones because Jones had gone to the canteen at a time when he should have remained at the shear. He testified that, in his opinion, Jones should have asked that a helper be sent to make the purchases instead of having a mechanic leave the area at a time when his services were needed. He testified that, in his opinion, anyone in the access pit where Jones might have been was in no danger of sustaining an injury if the shear was jogged. He testified that he could see into the hole but he did not see Jones.

There can be no question but that a greater degree of care should have been exercised in making certain that Jones was not in proximity to the shear where he could have been exposed to injury when the shear was jogged. There was a failure to adhere to safety regulations relating to the lock-out procedures. Jones was equally at fault when he gave an inexperienced employee his key to the only lock on the switch. He thereby lost control of his lock for safety purposes. He forgot to retrieve his key when he returned, and he forgot to check and make certain that the employee who had his key was in control of the lock. He had thereby placed reliance on a fellow employee who permitted the switch to be opened without checking Jones' whereabouts.

The arbitrator is convinced from all of the evidence in the record that Jones was in or adjacent to the pit when the shear was jogged. The arbitrator is convinced from all of the evidence in the record that Jones was not warned that the shear was about to be jogged. Although Jones was careless with respect to the possession of the key to the only lock that had been used to lock-out the switch, Jones should have been warned that the shear was about to be jogged.

When the shear was jogged, Jones became frightened and angry. It would make very little difference whether the shear was jogged once or twice. In either event, it was described by the foreman as an incident which would have been "scary" for anyone who was in the pit when the shear was jogged. Jones may have had every right to become angry and to protest what he believed to have been an act of carelessness on the part of a supervisor. His right to register his anger and his right to protest did not carry with it, however, the right to threaten a supervisor or a fellow employee with bodily harm. It is conceivable that anyone who may have been frightened by an experience which led that person to believe that he had been placed in imminent danger, might respond with the use of profanity. Jones, however, had no right to use the words, "You tried to kill me, I'll get you," or to use the words, "I'll kill you." There can be no question that when the foreman (Sexton) raised his hand in a calming motion it could not possibly be construed to constitute a threatening gesture. Jones' response was completely uncalled for when he stated to the foreman, "I'll break your arm and give it to you in 18 pieces."

Jones committed an additional offense. When a salaried foreman (Newcomb) attempted to intervene, Jones turned on that supervisor and stated, "Oh, you want to get into it too," after which he stated to the foreman, "You go to hell." When Jones was asked to go to the office and wait for the guard in order that he could be escorted from the plant, he walked off. The order was repeated several times and Jones refused to wait for the guard.

Jones did threaten his foreman with bodily harm. He told a salaried foreman to "go to hell," and he disobeyed the directions and instructions of the salaried foreman to wait for a guard before leaving the plant. Jones cannot justify the totality of his conduct and the threats which he directed toward a supervisor, including his insubordinate conduct toward a salaried foreman, by the fact that he had been frightened or that he may have been placed in danger because of the negligence of his foremen. Jones refused to accept a measure of responsibility for the unfortunate series of events which preceded his verbal assault upon a foreman. The fact remains that Jones committed a careless act when he turned over the key to his lock to a fellow employee and thereafter failed to retrieve the key when he returned to the work area. If Jones had retained possession of the key to his lock, or if he had retrieved the key from the fellow employee and had checked to determine whether the lock had or had not been removed, the entire incident could not have occurred.

In assessing the penalty imposed against Jones, the Company considered two incidents of discipline imposed against Jones in 1973. It considered an incident in March, 1975, when Jones was charged with horseplay and directing profane language toward other employees. Jones was suspended for three turns at that time. In June, 1975, Jones was again suspended for two turns for "riding on outside a crane cab." The imposition of a period of suspension consisting of thirteen days could not be considered to be unreasonable and must be considered to have been imposed for "just cause" within the meaning of the term as used in Article 3, Section 1, and Article 8, Section 1, of the Collective Bargaining Agreement.

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

AWARD

Grievance No. 7-N-26

Award No. 661

The grievance is hereby denied.

/s/ Burt L. Luskin

ARBITRATOR

April 30, 1979