Award No. 816
ARBITRATION
In the Matter of the Arbitration between
INLAND STEEL COMPANY
Indiana Harbor Works
and
UNITED STEELWORKERS OF AMERICA
Local Union No. 1010
Grievance No. 27-S-78
Appeal No. 1427
Arbitrator: John Paul Simpkins
December 26, 1989
Appearances:
(October 26, 1989)
For the Company:
P.D. Parker, Project Representative Union Relations
For the Union:
Jim Robinson, Arbitration Coordinator
Subject: Discharge for Excessive Absenteeism; Evidence
Statement of Grievance: "The grievant . . . Check No. 993, contends the action taken by the Company when on May 2, 1989, his suspension culminated in discharge, is unjust and unwarranted in light of the circumstances."
Relief sought: "The agg. request that he be reinstated and paid all monies lost."
Contractual Provisions Involved: Article 3 of the August 1, 1986 Agreement
Statement of the Award:
(December 26, 1989)
The grievance is denied.

Chronology of Grievance:

Grievance filed (Step 3)	May 5, 1989
Step 3 hearing	May 24, 1989
Step 3 minutes	June 30, 1989
Step 4 appeal	July 13, 1989
Step 4 hearing	August 4, 1989
Step 4 minutes	October 25, 1989
Arbitration hearing	October 26, 1989
Award issued	December 26, 1989

BACKGROUND
Company witness James Crompton is Section Manager of Finance and Auxiliaries at the Electric Furnace and Billet Caster. He is responsible for monitoring absenteeism and for the discipline of employees who are excessively absent.
In his testimony, Crompton stated that the grievant is the Third Helper in the Electric Furnace Sequence on the 3:00 p.m. to 11:00 p.m. turn. His duties involve weighing the alloys and flexer used in making the steel and he assists in adding the electrodes which creates the arc needed to melt the alloy. The ingredients added to the process by the grievant are needed to produce the correct chemical effect for the customer's order. Absent employees in the furnace area are replaced by less experience employees which increases the chance of not producing the required chemistry for the product ordered. Less experienced employees increase the risk of others taking short-cuts which increase the potential of others being hurt.
In the electric furnace area absenteeism has been controlled by an Attendance Improvement Program since March, 1986. There is a 90 day window where absences greater than six (6%) percent will cause a letter of notification to be sent to the employee. After successive one day and two day suspensions, the absentee rate drops to five (5%) percent. Continued absenteeism will result in a three day suspension with a final warning and record review conducted with the employee. A further absence will result in a suspension, according to Crompton.
Crompton also stated that absences are monitored by a computer which automatically calculates the percentage of absence. When he is given the print-out by the personnel clerk it is checked for accuracy and

arrangements are made to review it with the employee who may be accompanied by a Union representative if there is a possibility of discipline.

During the meeting with the employee the print-out is explained and again checked for errors with the employee's involvement. Any errors in the computer print-out will also be corrected. The Attendance Improvement Program is explained at that time and the absences are examined to determine whether there is a pattern. Crompton listens carefully to any reasons offered by the employee in order to get at the cause for the absences. His options are to take no action and thereby give the employee a pass or to take disciplinary action. Discipline is assessed after review of the record and reasons if there is no improvement in the employee's behavior. The intent of discipline is to improve conduct.

Crompton has known and supervised the grievant for 7-8 years. During this time he has monitored the grievant's absenteeism. The grievant has been disciplined in accordance with the absentee policy of the Electric Furnace Department and he received his second final warning and record review on November 4, 1988. Thereafter, on April 2, 1989, the third helper on the 11:00 p.m. to 7:00 a.m. turn called off and attempts to get a replacement were unsuccessful. After the grievant was instructed that he had to work a double turn he requested to go to the clinic alleging that he was not well. Nothing could be found wrong with the grievant yet he requested to be sent home. This left supervision short handed and the grievant was charged with the absence for a full turn in accordance with the absentee program. The computer generated a report on April 14, 1989 calling for the grievant's suspension preliminary to discharge. Examination of the grievant's record revealed no improvement or signs of improvement so Crompton decided to follow through with the suspension. The grievant missed work again on April 18, 1989.

On cross examination Crompton explained that on April 2, 1989 there were others on the job who were qualified to work down but at midnight, the only person available was the furnace stacker who was not qualified to work up and replace the absent third helper. He further stated that there were no objective findings of sickness on the part of the grievant by clinic personnel who did not send the grievant home.

Vincent Soto, Project Representative of the Human Relations Department made the decision to terminate the grievant after reviewing his record. Soto conducted the suspension hearing. The grievant did not perceive himself as having an absentee problem and thought he was doing pretty good. Even at the Step 3 meeting the grievant gave Soto no reason to reconsider his discharge.

In his testimony the grievant, whose seniority date is February 3, 1973, stated that he was hospitalized for 28 days in 1988 for alcohol abuse. During the same year he was hospitalized and under doctor's care for injuries resulting from a car accident. He lost 70 days due to the car accident.

Explaining his failure to work on April 2, 1989, the grievant stated that the nurse at the Company clinic noted that he had a slight temperature and since he had not been feeling well at the beginning of his turn, he decided to go home from the clinic. He stated that he requested to go home because he was not feeling well; he did not go home to avoid working because he needed the money.

The grievant further stated that he no longer has an alcohol problem and that he has made a concerted effort to straighten himself out. Nor does he believe he has an absentee problem. He does not call off because he does not feel like working and he recognizes that he has a responsibility and job to perform.

On cross examination the grievant acknowledged that he had a responsibility to come to work and that Management should be able to expect his regular and timely attendance. During 1989 he stated that he took one sick day in 1989 because he was not feeling good and he took one personal day.

On Saturday, April 15, 1989 about 9:00 p.m. he was assaulted and received 15 stitches. He was scheduled to work the 3-11 turn on Sunday but he called off indefinitely. The doctor who treated him at the hospital emergency room advised him to see his personal physician which he could not do until Monday, April 17, 1989. According to the grievant, his personal doctor advised him to rest and to take off a few days if he needed a day or so to rest.

Continuing, the grievant explained his ten days of absence in 1987 which resulted from a sprained ankle caused by slipping as he walked across railroad tracks on the job. Recalling his September 26, 1984 record review he stated that the conclusion was that he did not need to improve his attendance. The other warnings and discipline were recognized as being valid and there were occasions where he received a final warning and record review and no discipline.

The grievant's five year record of discipline for absenteeism is as follows:

Date	Action
09/26/84	Record Review upon reinstatement with 6 conditions
08/25/86	Suspension for 2 turns
12/19/86	Suspension for 3 turns

05/04/87	Suspension for 3 turns
06/23/87	Suspension for 3 turns and record review
11/04/88	Suspension for 3 turns and record review

The Company contends that just cause exists for the grievant's discharge and argues that he has run the gauntlet of progressive discipline over he past five years. It maintains that the grievant's absentee rate exceeded both department and plant standards and he had been given special consideration where the level of discipline applicable was called back for a lesser penalty. On April 14, 1989 the computerized Attendance Improvement Program triggered notice of the grievant's failure to work up to standard and his being at the suspension level. He failed to demonstrate a willingness to take the necessary step to protect his employment by maintaining an acceptable level of attendance.

The Company argues that there is a contract between it and the employee whereby a job, steady and good wages and benefits are promised in exchange for the employee's promise to work as scheduled. The grievant is said to have failed to keep this bargain. In the Company's view, the grievant has been given several passes where final discipline could have been imposed but despite his long service, he finally reached a point where extenuating and mitigating circumstances had become immaterial.

Lastly, the Company argues that the Union's calculation of the grievant's percentage of absence to show that he had not reached the five (5%) percent level, is based upon yearly averages whereas the Attendance Improvement Program is calculated based upon the percentage of absences within a 90 day window.

The Union contends that just cause is lacking for the grievant's discharge. It argues that the Company cannot base its action on its failure to take action because these incidents are not grievable. Infractions which do not relate to attendance are in the Union's view, irrelevant to the issue under consideration.

The Union argues that the application percentage by the Company is based upon averages and that an employee may be present more or less than average. While it acknowledges that its computation of the grievant's percentage of absence for the years 1984 through 1988 did not have the same basis as the Companys'. The Union argues that the circumstances of these absences must nevertheless be considered. Injury and illness negate a basis for cause under the circumstances, the Union argues. Most critical in its judgment is the absence recorded for April 2, 1989.

FINDINGS

The evidence is clear that the grievant's attendance problem did not just occur in 1989 but relates back to his reinstatement with conditions in 1984. Due to extended absences in 1988 he recorded 102 missed days. He was also tardy for two days during 1988 which is by far the most extensive period of absences. Absences during this year led to two final warnings and record reviews on June 23 and November 4. The absences giving rise to these record reviews are undisputed and each involved a written warning stating that it was final and that the next violation of the department's attendance policy would result in suspension preliminary to discharge.

The June 23, 1988 final warning and record review resulted in a three day suspension for the grievant. Between that date and September 15, 1988 the computer identified the grievant for suspension due to further absences. No action was taken by Crompton, however. The same is true for the final warning and record review of November 4, 1988.

The grievant's record of attendance for 1989 is what caused his discharge. It reflects the following:

February 20	Outside Injury
April 2	Personal
April 4	Tardy
April 7	Tardy
April 11	Tardy
April 16	Outside Injury
April 17	Failed to Report
April 18	Outside Injury

The absence of April 2 is contested by the Union as an inappropriate assessment because the grievant returned home through the clinic after working his regular turn. The Company charged the grievant with an absence for failing to work overtime because absences due to illness are counted in the absence program just as overtime is counted as a turn worked for attendance purposes.

The grievant's complaint of not feeling well on April 2, 1989 is unfounded and reporting to the clinic after being instructed to remain at work for a double turn, is viewed as an attempt to justify his leaving and the absence he knew would be charged against him. He was fully aware that supervision could not find a

suitable replacement. This fact says a lot about his attitude and regard for his employer's needs. Accordingly, his claim of not feeling well is rejected.

Also rejected is the claim that the working conditions were not conducive to him being present with a wound requiring stitches during April 16, 17 and 18, 1989. The nurse at the plant was a better judge of whether the grievant should have worked under the circumstances and conditions to which the grievant would have been subjected. No reason was given for his inability to report and had he done so and was returned home by the nurse, special circumstances would exist for Management or the arbitrator to consider in connection with his discharge.

The arbitrator recognizes, as the Company undoubtedly does also, that there is an invaluable investment in employees who are familiar and knowledgeable with the production process. This is especially true with long service employees like the grievant. Sixteen years is a significant investment for both the grievant and the Company and it cannot be said that every effort was not made to correct the grievant's attendance related problems. It is apparent that he has had his fair share of warnings and passes, since his reinstatement from a separation. No reasonable grounds exist for his non-attendance and failure to uphold his discharge would undermind the process and communicate a wrong signal to other employees. The grievance is, therefore, denied as Management was clearly within its right to discipline and discharge the grievant for excessive and unacceptable absenteeism under the Attendance Improvement Program of the Electric Furnace Department.

AWARD

Grievance No. 27-S-78 is denied.

/s/ John Paul Simpkins

JOHN PAUL SIMPKINS

Arbitrator

December 26, 1989