Award No. 825
IN THE MATTER OF ARBITRATION
Between
INLAND STEEL COMPANY
Indiana Harbor Works
and
UNITED STEELWORKERS OF AMERICA
Local Union No. 1010
Grievance No. 14-S-15
Clare B. McDermott
Opinion and Award
December 20, 1990

Subject: Meaning of "thirty (30) turns worked" in Agreement Provision Dealing with Losing Standing in Old Seniority Sequence And Gaining Standing in Sequence to Which Transferred to Fill Permanent Vacancy.

Statement of the Grievance: "Aggrieved employees listed below contend the Company violated the CBA and affected their seniority standing in the crane sequence by sending fellow employee W. Kelly #18818 back to the #1 & #2 Slab Yard after he worked forty (40) turns in an entry level job at the 80" Hot Strip.
"[grievants' names]
"Relief Sought Cease and desist and the Company to return W. Kelly #18818 to 80" H.S. mill.
"Violation is Claimed of Article 3, Section 1, and Article 13, Sections 2, 3, 4, 6, and 13."

Agreement Provisions Involved: Article 13, Sections 4 and 6 of the August 1, 1986 Agreement.

Statement of the Award: The grievance is denied.

Chronology	
Grievance Filed:	6-16-87
Step 3 Hearing:	7-07-87
Step 3 Minutes:	8-13-87
Step 4 Appeal:	8-20-87
Step 4 Hearing(s):	11-02-89
	11-10-89
	12-04-89
	2-15-90
Step 4 Minutes:	2-15-90
Appealed to Arbitration:	--
Arbitration Hearing:	2-23-90

Appearances
Company
R. V. Cayia -- Section Manager, Union Relations
Rene' Vela -- Section Manager, Union Relations
Dennis Burt --Quality Coordinator, 80" H.S. Mill
Union
J. Robinson -- Arbitration Coordinator
Larry Kruchowski -- Griever
Dave Hernandez -- Grievant
Sylvester Arrendondo -- Grievant

BACKGROUND

This grievance from the No. 1 and No. 2 Slab Yard contends that Management's allowing employee Kelly to return to the Craneman job in No. 1 and No. 2 Crane Seniority Sequence which he had held before transferring to a posted vacancy at the 80" Hot Strip Mill and after working there for a time adversely affected the seniority standing of those employees behind him in the Crane Sequence, allegedly in violation of Article 13, Sections 2, 3, 4, 6, and 13 of the August 1, 1986 Agreement.

In March of 1987 the Company posted a plant-wide notice of a permanent vacancy on the Job Class 10 Tractor Operator Coil Car job at the 80" Hot Strip Mill. Employee Kelly then was a Craneman at No. 1 Slab Yard in the No. 1 and No. 2 Slab Yard Crane Sequence at the No. 4 Slabbing Mill Department. Kelly and others bid for the vacancy, and Kelly was found to be the prevailing bidder on March 25, 1987.

Kelly began to be trained on the Tractor Operator Coil Car job by a qualified Tractor Operator Coil Car, and the job was double-manned. His training ran for twenty turns from March 29 to April 25, 1987. During all that training period Kelly was paid as on his old Craneman job at No. 1 Slab Yard and not as if on the Tractor Operator Coil Car job.

Kelly was scheduled and began working alone on the Tractor Operator Coil Car on April 26, 1987. He reverted to his old Craneman job at No. 1 Slab Yard on June 1, 1987. On June 2 he signed a form, stating that he wanted to revert to his former Craneman job.

Kelly worked a total of twenty training turns on the Tractor Operator Coil Car and twenty-five nontraining turns on that job before reverting to his former Craneman job at No. 1 Slab Yard.

This grievance followed, filed by eleven other employees in the Crane Sequence, claiming that Kelly's returning to it adversely affected their seniority standing.

The Union stresses that Kelly worked forty-five turns (twenty training and twenty-five nontraining) on the Tractor Operator Coil Car job, and it argues that he thus had established standing within the 80" Sequence, had lost his standing in the No. 1 Slab Yard Sequence under Article 13, Section 4 and, accordingly, was prohibited from returning to it. The Union says Kelly became a member of the 80" Department and, if he were unable satisfactorily to perform the new job, the Company should have taken progressive disciplinary action against him or should have demoted him to the 80" Labor Pool, but that he was not eligible to return to his old No. 1 Slab Yard Crane Sequence.

The Company notes the following provisions of Article 13, Sections 4 and 6:

13.13 ". . . Employees shall hereafter establish standing within a sequence after thirty (30) turns worked therein filling permanent vacancies in accordance with Section 6 below . . .

13.14 "No employee shall hold standing in more than one (1) sequence at one time, and an employee leaving one (1) sequence to enter another to fill a permanent vacancy shall lose his standing in the sequence from which he transfers after thirty (30) turns worked in the new sequence. . . .

13.32.7 "If an employee accepts transfer under this Section 6, his seniority rights in the department from which he transfers will be canceled after thirty (30) turns worked in his new department, provided, however, that during such thirty (30) turn period, such employee may voluntarily return to the department and sequence from which he transferred or the Company may return him to that department and sequence because he cannot fulfill the requirements of the job. Should an employee refuse a transfer voluntarily or return to the department and sequence from which he transferred, or if the employee accepts transfer, he may not again apply for transfer under Section 6-c during the period of six (6) months after such event. . . ."

The company contends that training turns are not permanent turns under that Agreement language. It cites the settlement of Grievance No. 25-R-16 as supporting that proposition. Thus, counting only permanent turns worked, the Company says Kelly had only twenty-five properly countable turns on the 80" job and, thus, that he reverted to his old sequence after only his twenty-fourth turn. With only twenty-four turns worked on the other job, Management says Kelly was entitled to revert to his old sequence and that the Company violated nothing in honoring his request to do so.

The Union answers that Section 4 does not distinguish on its face between training turns and nontraining turns. The Agreement says only "thirty (30) turns."

The Company refers to paragraph 13.32.7, which says that, if an employee accepts transfer (permanent vacancy) under Section 6, his seniority rights in the department from which he transfers will be cancelled after thirty turns worked in his new department, provided that during that thirty-turn period, he may voluntarily return to the department and sequence from which he transferred or the Company may return him to that department and sequence because he cannot fulfill the requirements of the new job. If the employee should return to the department and sequence from which he transferred, he may not again apply for transfer under Section 6-c during a six-month period thereafter. The Company says that six-month-freeze penalty was applied to Kelly.

Management says those provisions define the time period for establishing sequential rights in a new sequence and forfeiture of sequential rights in the original sequence. The Company agrees that the word "permanent" does not appear in relevant parts of the text of Section 6, but it emphasizes that paragraph 13.32.6, the heading of the provision last quoted, above, is itself headed "Permanent vacancies." The Company thus is sure that the clear thrust of all relevant Agreement language is that training turns are not to be counted for this purpose and that only permanent turns are to be considered.

The Union feels it significant that in negotiating the 1989 Agreement the parties added the words ". . . (excluding training turns, up to a maximum of thirty) (30)) . . . ," following the reference to "thirty (30)

turns worked" in Section 6, which is paragraph 13.32.7. The Union wonders, if the Company be correct here, why would the parties have made that addition to the 1989 Agreement.
The Company answers that it sought and got that added language to confirm its position here, which was only an argument before that and, in addition, because it added a cap to the training turns, which cap had not been there before.
The Union refers also to Award No. 430, which decided that, once a vacancy has been filled by the senior applicant, there no longer is a "vacancy." The Union argues that, once that happened, as it allegedly did here on March 30, 1987, when Kelly began his training turns on the Tractor Operator Coil Car in a double-manned arrangement, the vacancy was filled and the thirty turns began to run and that they ran out at the end of the third turn on May 11. The argument is that as of that moment Kelly relinquished his seniority rights in the No. 1 Slab Yard and gained new ones in the 80". Allowing Kelly to return to the former sequence after that is said to have harmed grievants who had been below him in that sequence, in that they allegedly were denied later promotions as a result of that action.
The Company alleges that for many years it has interpreted and applied these contractual provisions as excluding training turns from what would constitute permanent turns. In accordance with that interpretation, Management says many employees have returned or been allowed to return to their former sequence under circumstances similar to these. It urges that, in light of that consistent past approach, the Union should be estopped from pressing its contrary position here.
Union Relations Section Manager Vella said that he had been a Field Representative in Union Relations for eight years and that, when this kind of situation had arisen in the past, it was handled on the interpretation that training turns were not counted, except for one case. That dispute was challenged for a time, but the employee then retired, and the matter was dropped.
Moreover, says the Company, its position is not inconsistent with the Agreement language and allegedly is grounded in principles of fairness, equity, and common sense. That is, it is said that an employee in Kelly's position finds himself in a learning-curve arrangement while he copes with new and different job requirements, skills, responsibilities, effort, and working conditions. It is said that is especially true here in operating these critical pieces of huge, mobile equipment. While still training, the Company argues that the employee may not be exposed to all ordinary operating conditions. Thus, it is said to be appropriate to exclude training turns from "permanent turns," so that the employee will have ample opportunity to decide whether or not he wants to transfer to the new job and in order that Supervision may have sufficient opportunity to assess whether or not the employee satisfactorily can perform the job after exposure to all its typical operating conditions, which allegedly does not come until thirty permanent turns have been completed. If such decisions had to be made following training turns, they would have to be reached on inadequate and insufficient information.
During all of Kelly's training turns, for which he was paid as if on his former job, a qualified Operator (Trainer) rode in the cab with him. Kelly began working the job alone on April 26, and the Company says that began the thirty countable turns.
The Day Supervisor of Coil Handling & Inventory (Burt), who is responsible for seeing that delivery of coils is done correctly, among other duties, noted that while Kelly was training, there were thirty Coil Car Operators and eleven coil carriers. They are not all the same. There are four different designs among the eleven pieces of equipment and two different capacities, 90,000 and 120,000 tons. The differences are in turning radius, cab position, position of controls and panels, starting procedures, and length and width. Some cannot go into certain destinations because they are too wide. Cab position is important because it governs the ability of the Operator to see around and beyond the blind spots created by configuration of the equipment and its coil load. There are nine or ten different coil-delivery assignments, with an Operator responsible for getting coils there. The Operators rotate among the various assignments, so that they can keep their familiarity with each. The different assignments have different workloads, too. For example, No. 5 Pickle Line is the biggest customer, receiving from 100 to 120 coils in an eight-hour period, compared with 44" Finishing, with perhaps twenty-six coils in that time. Operators are not always with the same machine, since they are assigned on a first-come, first-choice basis. An Operator who gets in early is likely to get the equipment he wants. Thus, a new Operator must be exposed (trained) on each piece of equipment and at each delivery point.
Burt introduced a formal Operator training program. It anticipates a twenty-turn training period and includes a pre-training discussion, pre-operational inspection, start-up and stopping procedures, delivery points, safety, and quality handling of coils. In the first week there is no delivery of coils or even operation of the equipment. Controls are explained. In the second week start-up and stopping are gone over. The new

Operator then goes behind the wheel and in a deserted part of the plant near the lake, he starts, stops, and turns the equipment. During the third training week, the new Operator is taken over the delivery points throughout the fifty-six acres of coil storage, and he learns the lineups. Some few deliveries (to the Pickle Lines) are made. That occurs in the fourth and final training week, as well. The qualified operator is with the new one for all four weeks.

After the four-week training period, the trainer, trainee, and Burt review the trainee's performance and assess his progress. If more training be needed, it would be given.

Only after a training period is completed is the new Operator scheduled as an "Operator" and he then becomes responsible for performance of the duties by himself. That is day one of the Company's count here. The new Operators are told that at the beginning of training, as was Kelly, here.

The Company notes that during this same period another employee had twenty training turns and twenty-nine permanent ones then reverted to his former sequence (Mold Foundry). There was no challenge against that.

The Union cautions that this "thirty turn" problem is applicable only to a situation of an employee's transferring and entering into a new sequence and does not deal with training on a promotion within a sequence.

FINDINGS

This is a very narrow interpretive question and apparently has not been raised before. The parties' 1989 Agreement language has resolved it for the future.

The Union asserts that the applicable Agreement language reads clearly in its favor, so clearly, indeed, that there is no room for aid in interpretation by looking to long, unchallenged administration of the provision. But that cannot be embraced. The Agreement makes clear that an employee may not hold standing in more than one sequence at a time and that an employee leaving his sequence to enter another to fill a permanent vacancy loses his old sequential standing and gains standing in the new sequence after thirty turns worked in the new sequence or department. A reader unfamiliar with the reality of operating circumstances might think that that language assumed that there was only one kind of turn, for this purpose. If that were accurate, there would be no problem or dispute here.

But, looking to actuality, it is seen that there are two kinds of turns. One is a set of assignments of an employee new to the operation, the purpose of which is to attempt to make him familiar with what he will encounter on this new responsibility. The second kind of turn deals with conditions to be faced once the new Operator has gone through at least the initial training, accompanied by a fully qualified Operator, after which the new Operator first begins to experience what it is like to pull that job by himself.

The training requires that the new Operator be accompanied by one already fully qualified on all these pieces of equipment and delivery locations. The new Operator (Kelly, here) was not paid for those twenty training turns on the Tractor Operator Coil Car job. He was paid on his old Craneman job.

These coil cars are different, and the delivery locations are varied and have different maneuvering requirements. These pieces of equipment are monsters, and there is a a good deal for a new and inexperienced employee to absorb.

In light of all that, it would be unrealistically simplistic to read "thirty turns" for this purpose as including those during which the new employee knows nothing or very little about the duties of the job and during which he serves with constant oversight by another fully qualified Operator, and for which he is not paid the rate of the job he is learning.

Only after that training, while the new employee is operating on his own and becomes fully responsible will he be likely to be in position to assess in any realistic way what is good or bad, and easy or difficult about the new assignment and whether he wants to stay on it. Similarly, only then will Supervision be in a practical position to assess whether the employee be good, indifferent, or bad on the new work, and whether it wants him on it.

Accordingly, it must be held that the employee's decision to stay or revert and Management's decision to retain him or return him not be made final and irrevocable until each has had the contractually stated thirty turns of operation in the full light of the employee's performance of the new job's responsibilities, on his own. The uncontradicted testimony confirms that that has been the way these Agreement provisions have been administered for at least eight and perhaps fifteen years, without challenge. Thus, the practical resolution of this interpretive dispute must be that the thirty turns refers to thirty post-training turns and that they not count training turns. Consequently, since Kelly had not yet served thirty such turns when he decided to return, he had not yet lost his standing in the No. 1 Slab Yard Crane Sequence, had not yet gained standing in the 80" Sequence, and, therefore, was eligible to revert to his old sequence.

Thus, the grievance will be denied.

AWARD

The grievance is denied.

/s/ Clare B. McDermott

Clare B. McDermott

Arbitrator