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United States Steel Corporation Joliet Works and United Steelworkers of America Local 1445

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BOARD OF ARBITRATION

Case No. USS-7685-H

January 14, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
Joliet Works

and

Grievance No. WJ-69-42

UNITED STEELWORKERS OF AMERICA
Local Union No. 1445

Subject: Disciplinary Suspension.

Statement of the Grievance: "I the undersigned was given a three day suspension from Aug-5 through 7 1969 for hitting the control shanty with a stem while operating the east crane in cleaning house.

"Facts: It was an accident.

"Remedy Requested: I ask that the suspension be lifted and I be made /w/hole for all monies lost."

Contract Provision Involved: Section 8 of the Basic Labor Agreement, August 1, 1968.

<u>Grievance Data</u>	<u>Date</u>
Grievance filed:	August 12, 1969
Step 2 Meeting:	September 4, 1969
Appeal to Step 3:	September 4, 1969
Step 3 Meeting:	September 16, 1969
Appeal to Step 4:	November 6, 1969
Step 4 Meetings:	December 2, 1969
	February 20, 1970
Appeal to Arbitration:	April 1, 1970
Case Heard:	August 3, 1970
<u>Statement of the Award:</u>	The grievance is denied.

Grievant, a crane operator in the Rod Cleaning and Coating Department of the Wire Mill at Joliet Works, asserts that his three-day disciplinary suspension was without proper cause.

For twenty of his twenty-two years with the Company Grievant has worked as a craneman in the Cleaning and Coating Department. Prior to July 10, 1969, he was never reprimanded regarding crane operations. The parties agree that Grievant is a highly qualified, superior crane operator. However, on July 10, 1969, the "C" hook on his crane struck and damaged the transfer car control room, resulting in this disciplinary action. How this happened is the central issue in this case.

Grievant explained what occurred as follows: he had picked up a load of rods from the baker and put them in an aisleway near the control room. He knew it was in violation of safety rules to store rods there instead of the designated rod storage area at the east end of the floor, but claimed that at this particular time the storage area was full and there was hot steel in the acid tubs which required prompt removal to prevent burning. At this time, Grievant's job on the east crane was to remove rods from the baker and place them in buggies. It was the function of the west end craneman to remove the rods from the tubs and place them in the baker. Cranemen use their own judgment in moving rods, but a cleaner and coater has overall responsibility for the cycling operation and movement of rods. Grievant stated that on prior occasions he had placed spools of wire in the same aisleway when the floor was full and he had to move steel fast but that he always had received prior permission to do so.

Grievant further testified that after leaving this first load of rods in the aisle he picked up a second load from the baker, returned to the same area and placed them in a buggy which had been made available in the meantime. As he was removing the stem from this load and traveling, the bridge and carriage control "stuck" and he hit the emergency button to stop the crane. However, the "C" hook swung over and struck the control room. Immediately afterward, Grievant stated, he played with the crane control, got it working again and continued to move loads from the baker.

The conveyorman on this turn was R. Johnston. His normal position was outside the control room and around the buggy tracks. One of his duties is to have buggies available for loading. He also has occasion to be inside the control room. Grievant knew Johnston was inside when the "C"

hook struck the control room.

Grievant further testified that about 15-20 minutes after he had struck the control room, Foreman Neil Swanson came over, after talking with Johnston, and asked Grievant to come down from the crane. The foreman asked if he was feuding with Johnston and Grievant said "no." The foreman said that Grievant had "been on Johnston all night," but Grievant replied he was only ringing the bell to have Johnston bring buggies in for loading. Foreman Swanson asked Grievant to come into his office but Grievant refused. The foreman asked what was the matter and Grievant said, "Nothing." The foreman explained about safety hazards and said that Grievant ought not to be "mad" while running a crane. Grievant replied that he was not "mad." Grievant stated that he went back up to the crane and worked the remainder of his turn, did not see his foreman again that day and received no indication that he would be given any time off due to the incident.

Grievant also stated that he told his foreman on July 10, 1969, prior to the incident, that he was having difficulty with a sticking control. In their discussion after the incident the foreman asked Grievant if he wanted an electrician and Grievant replied, "You can call one if you want to." At no time on July 10 did Grievant suggest stopping the crane operation. Prior to July 10, 1969, Grievant advised the Company that he was having trouble with the control on the crane and an electrician did look at it. Some time after the incident occurred the controls were replaced with the same type of controls except that a rubber cover was inserted to protect against dirt. Grievant also testified that just a few weeks prior to the arbitration hearing he had had trouble with a crane and stopped operations until a millwright looked at it.

Rules 7.1 and 7.2 of the Safety Rules for Cranemen provide:

"7.1 Cranemen must report defective or missing safety equipment and mechanical or electrical defects without delay.

"7.2 The craneman is required, on each turn, to make out a written report on the condition of the crane."

The "Safe Job Procedures", which are reviewed periodically by supervisors with cranemen, provides in part with respect to "Safety Check" as follows: " * * * Report any failures to foreman immediately. Do not operate crane until repairs are made."

Neil Swanson, Turn Superintendent, Rod and Wire Processing, testified that Grievant is one of the best cranemen in the area but that he has always wanted to command the crew he works with from the crane; that other employees have complained to Swanson about this and that on a prior occasion he told Grievant not to bicker with and be so bossy of fellow employees. During the week prior to July 10, Swanson heard Grievant yelling at Johnston but did not know what was said. There is no occasion for a craneman to talk to a conveyorman during normal operations. During that week Johnston complained twice to Swanson. He said he was disgusted with Grievant because Grievant told him what to do and that he was not doing a good job. Swanson told Johnston to stay out of Grievant's way, to do the job as best he could and if he could not, to let him know. Prior to July 10 Swanson did not mention to Grievant the complaints by Johnston.

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Swanson further stated that he first became aware of the incident on July 10 within a few minutes after it occurred when a clerk called him and said that Johnston had come over from the control shed. Johnston told the foreman that he refused to work while Grievant was in the crane; and that he was afraid because Grievant backed the hook into the shed deliberately. The foreman observed the control shed had been pushed back several inches, part of the masonry cracked and an angle iron support dented.

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Swanson then called Grievant down from the crane and talked with him alone. He said that Grievant looked and sounded "angry." He asked Grievant why he put the rods on the floor and Grievant replied that he needed empty stems to put more rods in the cleaning tubs. Swanson also asked Grievant to come into his office to discuss the matter with Johnston but Grievant said he would have no part of Johnston. Grievant said that Johnston was not a fit man for the job, was not running the buggies right and didn't work with the men. (Grievant denied making the latter statement to Swanson.) During the turn the foreman advised both men as to the dangers of what occurred and that feuds could not take place.

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On July 11 Mr. Swanson and Department Superintendent Thomas discussed the July 10th incident. They decided to issue a 3-day suspension to Grievant and Mr. Swanson was directed to prepare such a notice. Grievant reported off work on July 11 and thereafter went on vacation for two weeks. He was given the suspension notice personally on August 4, 1969, the date Superintendent Thomas returned from his vacation and signed the notice.

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The employees in this department are on incentive. Johnston had been employed in this department only for one or two months prior to July 10, 1969, but, in Foreman Swanson's opinion, was performing adequately. He left the department voluntarily after a reduction in operations and now works in another department.

It is the Union's position that the damage to the control room was accidental due to a control malfunction, was without fault on Grievant's part and that in any event the Company waited too long to assess discipline.

It is the Company's position that Grievant deliberately rammed the control room in a fit of anger, or at least was negligent in operating the crane. It asserts that the incident could not have occurred as alleged by Grievant and that for a craneman to operate a crane in a fit of anger requires severe disciplinary action because of the dangers inherent in such operations.

Findings

The parties place great emphasis on whether there was a feud between Grievant and Johnston. The Company's explanation of what occurred takes shape and meaning if there was a feud. Thus, the Company asserts that what probably happened was that when Grievant brought a load of rods to the buggy area and discovered that Johnston did not have a buggy ready for removal of the rods, Grievant, in a fit of temper, dropped the rods in the center of the aisleway and rammed the "C" hook into the control room where Johnston was located. Grievant flatly denies that there was such a feud. The Board is persuaded, however, that a feud did exist and Grievant's denial strengthens the Company's case against him. Highly significant is Grievant's admitted refusal to meet with and face Johnston after the incident. No motivation for such refusal has been suggested, except that it is consistent with a feud.

There are other factors militating against Grievant's explanation of what occurred. Thus, he testified that he dropped the first load of rods in the aisleway in what he knew was a restricted area where such material was not to be stored except in a certain way and only with prior permission. Grievant admitted that he never before stored material in this area except with prior permission. While he claimed that he was in a hurry to remove further steel from the cleaning tubs, his function on July 10 was to remove rods from the baker and place them in buggies for removal to

another area of the plant. The function of removing steel from the tubs was that of the west end crane man.

Similarly unpersuasive is Grievant's contention that the accident was caused by the malfunction of one of the controls in the crane. If the control stuck as Grievant said it did it would have been reasonable and prudent for an experienced crane operator to have ceased operating that crane until such time as it had been checked by a maintenance employee to be certain that the control was again in full and safe operating condition. Under prescribed safety procedures Grievant, immediately after the incident occurred, should have reported the control failure to his foreman. Instead he continued to operate the crane for 15-20 minutes until his foreman came to him. In his discussion with his foreman after the incident Grievant did not insist that the crane be checked out; he continued to operate it until the end of his turn, and even then did not fill out a written report with respect to the alleged malfunction as he is required to do under crane safety rules and practices.

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Given the nature of incentives it is logical -- indeed only human -- to expect that occasionally an employee will lose his temper with respect to the work conduct of another employee which he considers inadequate or inept. Tolerances may grow thin, tempers flare and rash acts may follow. Apparently that is what happened here. Grievant's good record, however, cannot preclude the Company from concluding that there was proper cause for assessing discipline.

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The Union also asserts that the Company waited too long -- from July 10 to August 4 -- to assess discipline. We find nothing in the Agreement which imposes a specific time limitation for the assessment of discipline but assume, for purposes of argument, that the Company must act within a reasonable time after the alleged infraction. Here the Grievant failed to appear for work the day after the incident and thereafter was on vacation for two weeks. Although he was back on the job for one week before he received the discipline notice, this was during the vacation of Superintendent Thomas who had to sign the discipline notice. On the same day the superintendent returned from his vacation he signed the discipline notice and it was delivered personally to Grievant. Under these circumstances the Company acted within a reasonable time.

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Award

The grievance is denied.

Findings and Award recommended
by



Aaron S. Wolff, Arbitrator

This is a decision of the Board
of Arbitration, recommended in
accordance with Section 7-J of
the Agreement.



Sylvester Garrett, Chairman