2-2-1971

United States Steel Corporation Western Steel Operations Gary Works and United Steelworkers of America Local Union 1066

Sylvester Garrett

BOARD OF ARBITRATION

Case No. USS-8003-S

February 2, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
WESTERN STEEL OPERATIONS
Gary Works

and

Grievance No. SGa-69-38

UNITED STEELWORKERS OF AMERICA
Local Union No. 1066

Subject: Alleged Improper Cancellation of a Scheduled Work Turn

Statement of the Grievance: "Management made an unauthorized schedule change.

"Facts: On Tuesday, January 14, 1969, Management made schedule change; they notified the grievance committeeman of change; but he did not agree, the reason being power demand. They wanted to run unscheduled turns on 84" Hot Strip and #6 Stand Mill. This caused Cold Reduction to lose a days work (Wednesday) and work a 4 day split schedule.

"Remedy Requested: Make all involved employees whole for monies lost do to this action and cease and desist this flagrant violation of the Basic Labor Agreement."

Contract Provisions Involved: Sections 3 and 10 of the Basic Labor Agreement dated August 1, 1968.

Grievance Data:	Date
Grievance Filed in Step 2:	January 22, 1969
Appealed to Step 3:	February 11, 1969
Step 3 Meeting:	March 18, 1969
Appealed to Step 4:	April 10, 1969
Step 4 Meeting:	April 8, 1970
Appealed to Arbitration:	August 19, 1970
Case Heard:	January 5, 1971
Transcript Received:	None

Statement of the Award: The grievance is denied.

BACKGROUND USS-8003-S

This grievance from Gary Works' Sheet Mill Cold Reduction Department, Sheet and Tin Division (1) presents a claim that Management improperly changed grievants' posted work schedule, and (2) seeks a "make whole" remedy therefor, under Section 10-D-3 of the Basic Labor Agreement. 1

The relevant facts are not in dispute and appear in the Company brief as follows: 2

> "For the week ending January 18, 1969, the grievants were scheduled for the second turn Monday through Friday. On Tuesday, January 14, 1969, the Superintendent of the Sheet Mill Cold Reduction Department was advised that it had become necessary to add a turn on the 84" Hot Strip Mill which would be the second turn on January 15, 1969. Due to power demands, it was necessary to cancel operations on the 4-Stand Mill for the second turn of January 15. The Union and employees were notified of the schedule change at approximately 3:00 p.m. on January 14, 1969. Grievants did not report for work. The Union holds that the Company violated Section 10-D-3 by changing grievants' posted work schedule and requests payment for the cancelled shift of January 15."

Grievants are employees of the 4-Stand Mill crew, thus, affected by the cancellation of their scheduled work turn on January 15, 1969. 3

The central issue in this case concerns whether under Section 10-D-3 (or otherwise under the Agreement) grievants here are entitled to payment for their cancelled January 15, 1969 work turn. And, the controlling question herein raised is solely one of a contractual interpretation and/or application. The positions of the Union and Company appear as follows:

"Statement of the
Union Position

"The Union submits that the Company violated Section 10 of the Agreement by changing the schedule of the 4-Stand Mill crew without proper reason or authority under the agreement. The Company added a turn on the 84" Hot Strip Mill and due to power demands, it was necessary to cancel operation of the 4-Stand Mill for day turn, January 15. Management is in complete and exclusive control of the power distribution throughout the plant therefore, there being no breakdowns or other matters beyond management's control clearly indicates Management's violation of the agreement. The Company's schedule change in this instance does not qualify as being justified under the terms of the Basic Labor Agreement."

"Company Position

"The Union premise here seems to be that Section 10-D-3 was violated, and on the

"basis of that premise...grievants should receive eight hours' pay for the day deleted from their schedule. However, even if one were to assume a violation of that scheduling provision, there is no basis for providing the remedy requested. In other words, even in a case where Section 10-D-3 is violated, the remedy provided by the Agreement is not pay for any day deleted from the schedule. The Agreement is quite clear in providing, in Section 10-D-4, for a specific overtime remedy applicable only to a limited type of violation of Section 10-D-3 which is not here involved. This Board has also held that reporting allowance may be available where employees actually report for work as originally scheduled. Therefore, the Company's maximum obligation here, even on the assumption that there was a violation of Section 10-D-3, was to pay reporting allowance to all of the grievants who actually reported for work (see USC-365). None reported for work on the second turn of January 15."

The Company admitted at the hearing that the "change" here, i.e., cancellation of grievants' January 15 turn, was not based upon (or otherwise prompted by) "break downs or other matters beyond the control of Management," within the meaning of Section 10-D-3. Management would, however, claim that its action here was consistent with its right to relieve employees from duty "for lack of work or for other legitimate reasons," under Section 3 of the Agreement.

FINDINGS

In this situation, under a long established interpretation, the cancellation of grievants' January 15 work turn did, in fact, constitute a "change" in their work schedule--within the meaning of Section 10-D-3 of the Basic Labor Agreement. Admittedly, the change here was not prompted by "break downs or other matters beyond the control of Management"; it simply elected to use available power for an additional turn (not previously scheduled and involving other employees) on the 84" Mill while deleting the scheduled operating turn for grievants. The controlling question, then, is whether grievants, under these specific circumstances, are entitled to be made whole for eight hours of lost earnings, as a proper remedy.

Since an early decision in Case A-373, the Board consistently has acknowledged that not every schedule change warrants an award of remedial pay. Where, as here, such change involves only the deletion or cancellation of work hours from an original work schedule, that view appears especially applicable and sound. In past cases, moreover, it has been held that the proper remedy for violation of Section 10-D-3 is that provided in Section 10-D-4. And, thus, only under very rare conditions--as in Case USC-365--has the Board found other remedial action to be warranted.

No doubt this long established interpretation of Sections 10-D-3 and 10-D-4 results in part from a recognition that the Company may relieve employees from duty for lack of work,

or for other legitimate reasons. The Section 10-D-4 remedy, thus, normally applies only when work is required to be performed on a sixth day--after an improper change in schedule under Section 10-D-3 of the Agreement. 9

Notably, in the instant case, no claim is made, nor does the evidence otherwise show that Management's action here was inconsistent with its right to relieve employees from duty "for lack of work or for other legitimate reasons." Therefore, the relief sought by the Union and grievants herein may not be granted. Accordingly, the grievance may not be sustained. 10

AWARD

The grievance is denied. 11

Findings and Award recommended pursuant to Section 7-J of the Agreement, by

Edward E. McDaniel

Edward E. McDaniel
Assistant to the Chairman

Approved by the Board of Arbitration

Sylvester Garrett

Sylvester Garrett, Chairman