

9-30-1965

# United States Steel Corporation Sheet and Tin Operations Geneva Works and United Steelworkers of America Local Union 2701

Sylvester Garrett

Follow this and additional works at: [http://knowledge.library.iup.edu/garrett\\_series](http://knowledge.library.iup.edu/garrett_series)

---

## Recommended Citation

Garrett, Sylvester, "United States Steel Corporation Sheet and Tin Operations Geneva Works and United Steelworkers of America Local Union 2701" (1965). *Arbitration Cases*. 311.  
[http://knowledge.library.iup.edu/garrett\\_series/311](http://knowledge.library.iup.edu/garrett_series/311)

This Article is brought to you for free and open access by the Sylvester Garrett Labor Arbitration Collection at Knowledge Repository @ IUP. It has been accepted for inclusion in Arbitration Cases by an authorized administrator of Knowledge Repository @ IUP. For more information, please contact [cclouser@iup.edu](mailto:cclouser@iup.edu), [sara.parme@iup.edu](mailto:sara.parme@iup.edu).

BOARD OF ARBITRATION

Case No. USS-5054-S

September 30, 1965

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION  
SHEET AND TIN OPERATIONS  
Geneva Works

and

UNITED STEELWORKERS OF AMERICA  
Local Union No. 2701

Grievance No.  
SGe-64-96  
(TR-6-74-64)

Subject: Seniority - Distribution of Available Work.

Statement of the Grievance: "We, the Track Unit, charge the Company with violating Section 13-G of the April 6, 1962 Basic Agreement when the Company reduced our work week to 32 hours, when there was no decrease of work, in our seniority unit.

"Therefore we request all monies lost."

This grievance was filed in the First Step of the grievance procedure June 9, 1964.

Contract Provision Involved: Section 13-G of the April 6, 1962 Agreement, as amended June 29, 1963.

Statement of the Award: The grievance is denied.

BACKGROUND

Case No. USS-5054-S

This grievance from the Track Unit of the Transportation Department of Geneva Works protests Management's promoting four new hires to the Track Maintenance Seniority Unit in a week when grievants were scheduled and worked only 32 hours, as violating Section 13-G of the April 6, 1962 Agreement, as amended June 29, 1963.

On Thursday, May 21, 1964, the Track Maintenance schedule was posted and showed four days for the week beginning May 24, which included the Memorial Day holiday on Saturday.

Prior to this, the Transportation Department had asked Personnel Services for fifteen additional employees in order to fill vacation vacancies throughout the department. On Friday afternoon of May 22, the day after the schedule was posted for the following week, Personnel Services notified Transportation that it would get four additional employees on Monday. Eight more employees came into Transportation the following week, and several more the week after that, all in response to the earlier Transportation request for additional employees to handle vacation vacancies. Management intended that these new employees would come into the Transportation Department at the bottom level as Laborers and not at the class 4 Track Laborer level.

In the Transportation Department there is a Job Class 4 Track Laborer job in the Track Maintenance Seniority Unit and a separate, lower-rated Laborer job in the Labor Pool which is not part of the Track Maintenance Seniority Unit. The latter job apparently is preferred over the former because, although lower rated, it is used primarily as a pool from which employees are assigned to temporary vacancies on class 6 Locomotive Fireman, and class 9 Locomotive Switchman, jobs. In light of the preference of employees for the Laborer job, there is a local arrangement whereby Track Laborers may demote voluntarily to Laborer, thus breaking their continuous service in the Track Maintenance Seniority Unit, in order to be in position for higher temporary assignments as Locomotive Firemen or Locomotive Switchmen.

Consequently, on Friday afternoon, when various Track Laborers heard that Transportation would get new hires, five Track Laborers demoted voluntarily to Laborer, pursuant to a previously indicated desire to demote to Laborer whenever the department was hiring new Laborers. On Monday and Tuesday of the following week they signed voluntary demotion forms under Section H-2 (a) of the June 9, 1949 Local Seniority Agreement.

Management says that, in light of those five voluntary demotions, it was faced with five permanent vacancies on the Track Laborer job, and accordingly it promoted the new hires to fill four of those vacancies, and they worked four days as Track Laborers in that week.

Although new to the Transportation Department, those four employees were not hired off the street but were on layoff from the Geneva Pipe Mill, which is represented by a different Local Union. At the end of the week in question, they were recalled to the Pipe Mill, and thus they were in Transportation only one week.

The Chairman of the Grievance Committee testified that Supervision had told him that it was under the impression that if the Track Laborers had been scheduled and worked five days in the week in question, they would have been entitled to overtime for the unworked Memorial Day holiday on Saturday and, to avoid that result, all Track Laborers were put on a four-day week. The witness noted that the grievance was filed in early June and that the next holiday, July 4, also fell on Saturday, and he said that on that occasion Management did not reduce the schedule and all Track Laborers worked five days that week.

The Union believes its position is supported by rulings in USC-1159 and G-169. It says that it does not dispute Management's right (1) to upgrade employees or hire new ones in order to avoid payment of overtime; (2) to "block out" a holiday to avoid overtime; or (3) to decide when work will be done. It does insist, however, when Management decides to have work done by a seniority unit, as it did here, and when there is no decrease of work in that unit, as there was not here, that home unit employees are entitled to 40 hours' work at straight time before "foreign" employees may be brought in to share available work.

The Union claims, and Management's witness agrees, 10  
that if the volume of work to be done was so heavy as to require  
that some or all of the Track Laborer vacancies be filled, there  
would have been no particular problem, after being informed of  
the voluntary demotions of the five Track Laborers, in Manage-  
ment's redistributing those hours among remaining Track Laborers,  
simply by adding another day to their scheduled week, which would  
have given some of them 40 hours of work that week.

Since, because of the unworked Saturday holiday, all 11  
Track Laborers actually received 40 hours' straight-time pay  
for this week, Management feels that 13-G and the principles of  
USC-1159, G-169, and like cases should not apply here. It says,  
moreover, that the basic problem actually was created by men in  
this seniority unit (the five voluntary demotions) and that it  
should not be penalized for reacting in this manner, which it  
characterizes as similar to its promoting to fill permanent  
vacancies in the middle of a scheduled week.

The Company stresses that the five new employees were 12  
brought into Transportation originally as Laborers and not as  
Track Laborers and, therefore, it says that they were not hired  
to deprive grievants of 40 hours' work, but ultimately were  
promoted into the Track Maintenance Seniority Unit as Track  
Laborers to fill four of the five vacancies left by those who  
had demoted voluntarily to Laborer.

### FINDINGS

It is clear that the twenty grievants, incumbent Track 13  
Laborers, could have worked as such for 40 hours during the week  
in question if the 160 hours left vacant by the five Track  
Laborers who demoted voluntarily to Laborer had been redistri-  
buted among remaining Track Laborers. But, those are not the  
hours in dispute, since it is agreed that it is up to Manage-  
ment to decide whether and when this work should be done. Thus,

the Union does not claim that Management was compelled to redistribute those 160 hours to remaining Track Laborers, and if there were no more to the case, there would have been no grievance. Moreover, even if Management had redistributed those 160 hours to incumbent Track Laborers rather than promoting four new employees from Laborer, there still would not have been enough hours to add a fifth day for all forty-one of the Track Laborers scheduled for that week or even for all of the thirty-six who remained after the five voluntary demotions.

The dispute arose because, following those five voluntary demotions, Management decided, by promoting four new employees to fill five of the vacancies resulting from the voluntary demotions, that there were 128 hours of Track Laborer work that should be done that week. Those 128 hours, plus 22 additional hours worked that week by "left-over" Laborers from the other line of progression, equal 150 hours worked in that week as Track Laborers by employees whom the Union regards as "foreigners." This computation excludes eight hours worked on Sunday by a Laborer, since it is agreed that that is not inconsistent with a local arrangement regarding Sunday manning of the Track Laborer job. It excludes also 74.8 hours alleged by the Union to have been worked improperly as Track Laborers by upgraded Laborers, since 57.8 of those hours were worked by two employees who actually were incumbent Track Laborers, and the other 17 hours claimed were not proved. 14

Ignoring for the moment the random 22 hours worked that week by "left-over" Laborers, the Union's claim rests entirely on the view that the four new employees promoted to Track Laborer were "foreign" to the Track Maintenance Unit. 15

That there might have been some initial doubt about the validity of that premise is shown by the Voluntary Demotion provisions of Section H-2-(a) of the 1949 Local Seniority Agreement, which reads as follows: 16

"If, for justifiable reasons, an employee desires to exercise his occupational continuous service on a lower occupation within his present line of progression, he may do so, provided a permanent vacancy exists on such occupation. He cannot, however, voluntarily exercise occupational continuous service on an occupation in any other line or progression. If, in the opinion of the Company, the application of the above privilege should result in a situation not consistent with efficient operations, this privilege may be denied, in which case the employee shall have recourse to the grievance procedure to assure him full consideration of his rights under the May 7, 1947 Agreement."

If, as seems clear from the first and second sentences of Subsection (a) above, an employee may demote voluntarily only to an occupation "within his present line of progression," and since the five employees voluntarily demoted from Track Laborer to Laborer with no suggestion that those voluntary demotions were in any way improper under the language quoted, it would seem that the Track Laborer and Laborer jobs both were in the same line of progression. If the two jobs were not in the same Unit, it is difficult to see why those employees thought they were entitled to demote and why Management allowed the demotions. 17

If both jobs were in the same line of progression, there then would be no basis in Section 13-G, the Awards in USC-1159 and G-169, or in the evidence for the charge that the four new employees promoted to Track Laborer were "foreigners," for in that event and even as Laborers they would be as "native" (although younger in Unit service) to the Track Laborer line of progression as incumbent Track Laborers and, at least so far as USC-1159 and G-169 are concerned, would be entitled to share all available work in that Unit to the same extent as incumbents of the higher-rated Track Laborer job in the same unit. 18

The ramifications of this potential analysis need be explored no further, however, for the consistent position of both parties throughout all stages of this case, including grievance proceedings, briefs, and hearing, was that the class 4 Track Laborer job was in the Track Maintenance Seniority Unit and the lower-rated Laborer job was a pool job in a different seniority unit below the former.

19

Thus, the Board must, because the parties did, view the Track Laborer job as in a unit separate and apart from that of the lower-rated Laborer job in the pool.

20

But even when the two jobs are so treated, the four new employees who were promoted to fill four of the vacancies created by the voluntary demotions of five Track Laborers, were not "foreign" to the Track Maintenance Unit if the promotions were proper, and there is no indication that they were not. That is, there is nothing in this record to suggest that seniority rights of any other pool Laborers were violated by promotion of the four new employees. This probably results from the fact, as explained by Management's witness, that although the four new employees were the youngest Laborers in service, they were given the undesirable promotions since the Laborers with least service normally are promoted to Track Laborer, where they have no opportunity to fill temporary vacancies on class 6 and class 9 jobs. This is further supported by the fact that five Track Laborers had indicated a kind of standing desire to demote to Laborer (and actually did so) if the department were hiring new Laborers.

21

Since it seems clear therefore that the four new employees were promoted to the Track Laborer job in the Track Maintenance Unit, they became incumbent Track Laborers and thus acquired all rights of Track Laborers, including the right to share all available work on that job whether it were to be 32 or 40 hours per week.

22

The four new employees came into the Transportation Department as Laborers in the pool and not as Track Laborers, and they were to be used anywhere in the department to fill

23

vacation vacancies. They were in fact promoted to Track Laborer only because five employees in the latter job voluntarily demoted from it. If those five had remained as Track Laborers, all employees in the Unit still would have worked only 32 hours.

Consequently, the Union claim amounts to the proposition that when, without violation of the Agreement, a seniority unit is scheduled for only four days in a given week, and when five employees in that unit voluntarily demote out of it thus creating five permanent vacancies, Management may not promote four employees from lower-rated jobs to fill four of those five vacancies, but must decide either (1) to let the work go undone or (2) to assign it first (up to 40 hours) to those who were incumbents of the job before the promotions were made.

24

But, that contention finds no support in 13-G or the Awards in USC-1159 or G-169, and its assertion indicates that perhaps it may be worthwhile for the Board to restate the extent of those holdings.

25

In those cases the schedules of "native" employees were reduced to 32 hours per week for the purpose of providing enough "additional" work so that "foreigners" also would have 32 hours per week. No such motivation was present here. On the preceding Thursday, all Track Laborers were scheduled for four days and, although the reason may have rested on an erroneous interpretation of Section 11-E-1, no part of that reason was a desire to take work from "natives" so that there would be some for "foreigners." There could have been no such motivation because, when the decision was made and the schedule posted, there were no "foreigners" present; nor was Management aware then that there would be five voluntary demotions and resulting permanent vacancies, much less that four new employees would appear who could be utilized to fill four of the five vacancies. Indeed, it is clear that no Track Laborers would have worked more than 32 hours in the week in question even if the five employees had stayed in the unit and if the four new ones had not been promoted. Actually, presence of the four new employees had no bearing one way or the other on whether previous incumbents of the Track Laborer job worked 32 or 40 hours that week. Those circumstances do not come within the principles of USC-1159 and G-169.

26

This is not to say that Management may unreasonably underestimate its needs for a unit in a given week, with the foreknowledge that new employees from a different seniority unit will appear later who may be used to bail it out should more work have to be performed than was scheduled. But no such facts are present in this case.

Thus, as to the 128 hours worked by the four employees promoted to the Track Laborer job, there was no violation of the Agreement.

Returning to the problem presented by the 22 random hours worked as Track Laborers by five different "left-over" Laborers from the lower job in the pool, the result must be the same, for here, too, grievants were not reduced to 32 hours in order to make Track Laborer work available for those five Laborers.

Grievants would have worked only 32 hours regardless of whether or not the five Laborers had worked short stints as Track Laborers. Only one of the five worked a full turn as Track Laborer and, since there were five permanent vacancies and only four employees were promoted, that single full turn could be balanced off against the fifth vacancy. Of the four remaining Laborers, two worked four hours as Track Laborer and two worked three hours. Those circumstances do not present the kind of situation held to violate 13-G in USC-1159 and G-169.

Accordingly, the grievance must be denied.

AWARD

The grievance is denied.

9.

USS-5054-S

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

Clare B. McDermott  
Clare B. McDermott  
Assistant Chairman

Approved by the Board of Arbitration

Sylvester Garrett  
Sylvester Garrett, Chairman