6-25-1964

United States Steel Corporation Columbia-Geneva Steel Division Geneva Works and United Steelworkers of America Local Union 2701

Sylvester Garrett

BOARD OF ARBITRATION

Case G-165

June 25, 1964

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
COLUMBIA-GENEVA STEEL DIVISION
Geneva Works

and

Grievance No. RM-7-35-63

UNITED STEELWORKERS OF AMERICA
Local No. 2701

Subject: Computation of Vacation Pay.

Statement of the Grievance: "We the employees of the Roll Build-Up Crew, feel management is in violation of Section 12-D of the April 6, 1962 Labor Agreement. We were paid 40 hours for week of vacation instead of the 48 hours we were entitled to under Section 12-D of the Agreement.

"Therefore, we request monies lost because of this violation of Contract."

This grievance was filed in the Second Step of the grievance procedure March 1, 1963.

Contract Provision Involved: Section 12-D of the April 6, 1962 Agreement.

Statement of the Award: The grievance is denied.

BACKGROUND

Case G-165

This grievance from the Rolling Mill Department of Geneva Works claims improper calculation of vacation pay under Section 12-D of the April 6, 1962 Agreement, which reads: 1

> "Each employee granted a vacation will be paid at his average rate of earnings per hour for the first two of the last four closed and calculated pay periods worked by the employee preceding the first week of the actual vacation period. Hours of vacation pay for each vacation week shall be the average hours per week worked by the employee in the first two of the last four closed and calculated pay periods worked by the employee preceding the first week of the actual vacation period, but not less than (a) forty hours per week, or (b) the scheduled workweek of the plant, whichever is larger, nor more than (c) forty-eight hours per week, or (d) the scheduled workweek of the plant, whichever is larger. For the purposes of this Section, 'pay period' shall mean a two-week period or a semimonthly period.
>
> "If a week of vacation is scheduled in accordance with Subsection C-2 of this Section prior to May 1, contrary to the employee's request, the pay for such vacation (and for not any more than one additional week which the employee may elect to join with it) shall be at the same rate as the rate of vacation pay for the other weeks of his vacation, if any, taken after May 1, calculated in accordance with this Subsection D, but when such week (or weeks) of vacation is taken he will be paid an advance thereon equal to 40 times his standard hourly wage rate plus the 18½ cents cost-of-living allowance provided for in Subsection 9-M of this Agreement.

"Vacation pay computed on base periods prior to a general wage increase for a vacation or portion thereof scheduled after such wage increase in such year shall be adjusted for such increase in such year in accordance with practices in effect under the July 1, 1954, Agreement."

Grievants believe their vacation pay should be calculated on the basis of 48 hours per week, rather than 40, under the above provisions. A drop in business late in 1962 led Geneva Management to work Rolling Mill crews on an alternate week basis, thereby permitting employees to qualify for SUB during the off weeks in lieu of part-timing the crews. During these weeks actually worked, the crews normally worked 48 hours. In calculating vacation pay for grievants, Management included the weeks not actually worked in the denominator to determine the average hours worked per week. Such average figure falling below 40 in each instance, the employees therefore received 40 hours per week of vacation pay. 2

The Union argues that Section 12-D contemplates that the hours of vacation pay "shall be the average hours per week worked by the employee." The Union believes it unreasonable to hold that weeks in which no work actually was performed by the employees may be used in determining average hours of vacation pay under Section 12-D. In support of its view, the Union cites a decision interpreting Section 12-F-1 of the J. & L. Agreement. Although the language in the J. & L. Agreement differs from that in Section 12-D, the Union believes the difference should not affect the approach there used concerning application of the word "worked." 3

The Company notes that the 4-week floating base period for calculating vacation pay in U. S. Steel dates from 1937, when the first collective bargaining agreements were negotiated with the Steelworkers. The clear purpose of the floating base, 4

it notes, was to maintain roughly the employee's current level of earnings while on vacation. It was because of the realization that there would be some weeks in the vacation base period when no work, or very little work, might be performed, that provision ultimately was made that when the average for the four weeks was less than 40, a minimum of 40 hours of vacation pay still would be due. The Company thus feels that the formula in Section 12-D was established so as to cover the very sort of problem which is involved in the present case. It stresses that ever since 1937 it has followed the same procedure in calculating vacation pay hours without protest. To Management it seems a little late for the Local Union at Geneva now to suggest that the parties' negotiators over the years intended something different from what the language of Section 12-D seems to imply, and what Management consistently had done over a period of 25 years.

FINDINGS

The implications of the parties' arguments in this case may be somewhat broader in scope than necessary for decision of the specific grievance involved. Were the Board to embrace fully the interpretive approach of either party, it thereby might appear to cast doubt upon proper application of Section 12-D in situations quite different from that in hand. 5

In the present case the grievants were scheduled in an unusual manner in order to accommodate their own interests to at least as great an extent as that of Management. What they seek here is 48 hours per week of vacation pay because in alternate weeks they worked 48 hours, under an agreed arrangement, even though they worked no hours in the remaining alternate weeks. The language of Section 12-D cannot be said to require the result which the grievants here seek. Indeed, the Union relies essentially on an argument by analogy to the approach which Section 12-D does require as to the calculation of the average rate of earnings for vacation pay purposes. 6

On the face of Section 12-D, however, the determination of average rate of earnings for vacation pay purposes is treated differently from the determination of average hours per week. The Union argument does not seem to be supported either by the specific language of the Agreement as to determination of hours of vacation pay, or by any long standing practice such as the Company here stresses. 7

In these specific circumstances, therefore, the grievance should be denied. 8

AWARD

The grievance is denied. 9

BOARD OF ARBITRATION

Sylvester Garrett, Chairman