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

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BOARD OF ARBITRATION

Case No. USS-5169-W

March 23, 1966

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
WIRE OPERATIONS
Joliet Works

and

Grievance No. WJ-64-41

UNITED STEELWORKERS OF AMERICA
Local Union No. 1445

Subject: Contracting Out.

Statement of the Grievance: "I, the undersigned, am being deprived of my rights and benefits under the Agreement. Outside contractors are performing work (patching roofs) I have been doing for the past several years. I have been on a lay off status. I am asking to be made whole.

"Facts: Joseph Podobnik was layed off. An outside contractor came into the mill to patch roofs. The Union was notified and the Grievanceman assumed all affected employees would be working as per Local Agreement.

"Remedy Requested: JOSEPH PODOBNIK should be reimbursed any monetary loss."

This grievance was filed in the First Step of the grievance procedure September 14, 1964.

Statement of the Award: The grievance is denied.
This grievance from the Maintenance Department of Joliet Works protests the grievant Carpenter's being laid off while an outside contractor repaired the Wire Mill roof as violating Section 2-B of the April 6, 1962 Agreement, as amended June 29, 1963, and an alleged local agreement to the effect that all related craftsmen will work five days per week when an outside contractor works in the plant.

During the Summer of 1964 Management concluded that a large area (about 3100 square feet) of the Wire Mill roof should be repaired and that the nature and extent of the leaks, the presence of flexible expansion joints in the area to be recovered, and the fact that a prior temporary patch had not held up, all dictated that a "hot" application be employed.

The Union was notified of this on August 3, and the contract arranged with the outside contractor on August 14, 1964. On six calendar days between August 17 and 27, 1964, the contractor spent 28 man-days putting a "hot" application on the Wire Mill roof.

Grievant was on layoff from August 16 to 29, 1964.

The Union claims that grievant was capable of doing that work and thus that he should have been recalled to perform it.

The Company says that, although plant employees ordinarily have done "cold patch" roof-repair work, that they have neither the equipment nor experience required for "hot application" repairs, which at least since 1960 have been done by outside contractors.

It is said that "cold patching" involves application of a soft, pliable, roofing compound at air temperatures, is used on relatively small areas, and is intended to effect only temporary repairs.
"Hot applications" are employed as permanent repairs and for large roof areas. They require that the area to be recovered be swept with a power broom and scraped with a spud machine down to the asphalt felt. Coal tar pitch is cooked in a kettle and applied in a molten state over each of three successive layers of new asphalt felt. Finally, the entire area is covered with hot pitch and then regraveled.

Management says that the plant does not have the equipment necessary for "hot applications" in that it has no tar-cooking kettle, power broom, or spud machine.

The Union feels that the Company has over-emphasized the difficulty of making "hot applications" and says that plant personnel have made such repairs in the past.

FINDINGS

The only specific evidence suggesting that plant employees have done "hot applications" at Joliet relates to a single incident eight or nine years ago when several bolt-size holes (for installation of an exhaust fan) had been drilled in a roof in the wrong place and, therefore, the roof had to be repaired immediately in order to prevent rain damage to equipment. Apparently it took no more than one or one and one-half days, and the witness said that Bricklayers then had a tar kettle for use in laying wood-block floors, and he imagined that that kettle was used for that "hot application."

The Company says that the plant now has no such kettle, and a Union witness agreed that, although there had been a kettle in the past, it since had been discarded.

Management noted in Step 4 that the matter of repairing roofs by "hot applications" had been the subject of an early Joliet grievance (JOL-703). On that occasion the same
outside contractor as was engaged here had repaired certain mill roofs by "hot applications," and that grievance resulted. There the Company insisted that "hot applications" had not been done by the plant personnel, and the grievance was dropped in Step 4.

The Union argued that the situation in Grievance JOL-703 was different from the present one, on the alleged ground that no employees were laid off while that work was done. The Union believes that when an outside contractor works in the plant, no employees in that trade may be laid off.

That argument caused Management to point to Grievance JOL-1017, which was filed in March of 1961 by the present grievant, protesting that outside contractors were in the plant on carpentry work while grievant was on layoff, as he had been for 38 weeks. In Step 4 the Union withdrew that grievance without prejudice in November of 1961.

Although there was some suggestion that the grievance was withdrawn in return for grievant's being recalled to work, the evidence on balance indicates rather that he already was back at work before the grievance was filed. Moreover, there is no evidence that grievant received any back pay for any of his 38-week layoff period, during which outside contractors allegedly did some carpentry work.

Furthermore, Company Exhibit 5 shows ten occasions of in-plant roof repairs by outside contractors from 1960 up to this event in August of 1964, and at least seven of them appear to be reasonably similar to the kind of work in question here. Thus, not only is there no substantial evidence of "hot applications" having been made by plant personnel over the years in the past, but also the record shows significant performance of such work by outside contractors. Hence, no violation of Section 2-B or of the Experimental Agreement emerges from these facts.
The Union alleges generally that a local agreement requires that all affected craftsmen work five days per week when an outside contractor performs related work. It is unnecessary to decide that no such local agreement exists; it is enough to say that this record contains insufficient evidence from which to conclude that it does exist. In any event, moreover, it would not appear to be especially relevant here even if it had been established, since such a local agreement would not have been violated by an outside contractor's performing work for which plant Carpenters do not have the necessary equipment and which, as the evidence shows, they have not done in any relevant period in the past.

AWARD

The grievance is denied.

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

Clare B. McDermott
Assistant Chairman

Approved by the Board of Arbitration

Sylvestre Garrett, Chairman