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

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BOARD OF ARBITRATION

Case No. USS-7998-S

February 2, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
WESTERN STEEL OPERATIONS
Gary Works

and

Grievance No. SGa-68-129

UNITED STEELWORKERS OF AMERICA
Local Union No. 1066

Subject: Alleged Refusal to Perform Work

Statement of the Grievance: "We, the undersigned, request to be paid all monies lost due to being docked 1 hour on February 2, 1968.

"Facts: We were accused of not working between 7:00 AM and 8:00 A.M. but we contend we were in the process of doing our work.

"Remedy Requested: That the grievants' request be granted."

2.

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Contract Provisions Involved: Sections 9 and 10 of the Basic
Labor Agreement dated September 1, 1965.

Grievance Data:

Date

Grievance Filed in Step 2:	February 6, 1968
Appealed to Step 3:	March 13, 1968
Step 3 Meeting:	April 8, 1968
Appealed to Step 4:	May 9, 1968
Step 4 Meeting:	April 1, 1970
Appealed to Arbitration:	August 19, 1970
Case Heard:	January 5, 1971
Transcript Received:	None

Statement of the Award

The grievance is denied.

BACKGROUND

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This grievance from Gary Works' Sheet and Tin Division presents a claim that Management improperly "docked" employee grievants R. Banzen, E. Scroggins, P. Frazzitta and D. Petro one hour's pay each for alleged improper work performances on February 2, 1968. Violations of Sections 9 and 10 of the Basic Labor Agreement are alleged.

1

The record shows that grievants, on February 2, 1968, were scheduled and assigned to work the 7:00 a.m. to 3:30 p.m. turn in the Fabrication and Field Shop, Central Maintenance Department. They each reported for work as scheduled but, subsequently, all four grievants were denied pay for the first hour of the work turn as, according to Management, they failed and refused to perform any assigned work. The basic facts, thus, appear in the Company brief as follows:

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"Grievants R. Banzen, E. Scroggins, P. Frazzitta and D. Petro are regularly scheduled for the day shift, 7:00 a.m. to 3:30 p.m. At 7:30 a.m. on February 2, 1968, the Foreman observed the four Grievants and two other employees sitting in a group along the north wall of the Structural Shop. The Foreman approached them and told them to 'break it up,' and to start work. The Foreman claims they did not comply with this instruction as he again observed them at 7:55 a.m., still grouped together, making no attempt to start work. He then approached them again,

"and told them that they would not be paid for the first hour of the turn as they had performed no work during such period. The subject grievance followed...."

The Union and grievants, in effect, urge that the Company was not justified in docking the grievants under the existing circumstances. While not claiming that grievants actually performed their assigned work, "The Union submits that each of the grievants was improperly docked one hour's pay." It, thus, asserts, "They were in the department, ready for work at the start of the turn, but due to...unusual delays, they were having coffee and awaiting the right opportunity to begin their assignments."

The record of evidence, as presented during grievance procedure meetings and at the hearing--with respect to each of the four named grievants--reflects the following:

(1) Grievant R. Banzen urged that there was nothing to be done on his particular assignment until certain necessary drilling work was completed.

According to Management:

"Grievant Banzen whose assigned job involved fabricating side guides for the 84" Mill, had work to do during the first hour of the turn. There were six guides--three left hand and three right hand to be fabricated. All guides were not fabricated and at the drill press at the start of the turn; hence, Banzen could have been working on the remaining guides."

At the hearing, grievant testified, in effect, that on the morning in question, he was to resume a fabrication job which earlier had been assigned to him, though which he had not completed. He reported that when the General Foreman first spoke to him and the others at about 7:30 a.m., he (grievant) was awaiting certain "end pieces" of side guides (84" Mill) which then were in another area for drill work required. Banzen admitted, however, that the remaining side guide pieces were in his possession--and could have been fabricated--though it was his intention to fabricate the pieces in "sets" using the end pieces, too. Grievant Banzen testified that after finishing his coffee, i.e., at about 7:40 a.m., he left the others and went to the drill press area and waited there for completion of the drilling work and movement of the pieces (by crane) to his own work area. Banzen says that he was not present at about 7:55 a.m. when Foreman Starr returned to advise that he and the others were being docked for the first hour's work. According to grievant, "I was in the area of the drill press when I first learned from another employee that I also had been docked." Grievant does not, however, claim that he actually performed work during the hour in question.

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(2) Grievant E. Scroggins urged that he had been assigned to help grievant Petro the day before and was under the impression that he was to continue to help Petro on the day in question.

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With respect to grievant Scroggins, Management asserts:

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"Grievant Scroggins was assigned to help grievant Petro obtain material from the storage area during part of the turn on the day before the morning in question.

"This work was completed on the previous turn, however, and Scroggins could have been working on the job of fabricating drop-out doors for the 80" furnaces, a job that he had been working on for one or two days prior to being assigned to help grievant Petro."

Scroggins, at the hearing, testified that upon arriving at work on the morning of February 2, he reported directly to grievant Petro for instructions. Thereupon, according to Scroggins, "Petro said, 'Just relax.'" Scroggins then waited along with Petro and the others, drinking a cup of coffee. Scroggins testified that when Foreman Starr made his first pass, at 7:30 a.m., he, Scroggins, understood Starr to say, in effect, "Break it up and get to work." Scroggins claims that upon inquiring of Petro what they were to do, "Petro told me that he was waiting for a piece to get burned," and, thus, could not get started with his assignment. Grievant Scroggins states, "I stood around with Petro while he was waiting."

Later, according to Scroggins, the Foreman came by again, i.e., about 7:55 a.m., and said, "You men have been docked for the first hour, and if you don't get to work, you will be docked for a second hour." At that point, according to Scroggins, he moved from the area where he was standing with the others and walked over to a work bench where he stood performing no work, for the next "thirty to forty minutes," until "a group leader came over and assigned me to another job."

At the hearing, notably, grievant, in effect, admitted that he believed both he and Petro "could have been doing something" during the first hour. In any event, grievant Scroggins made no claim that he performed any work during the hour in question.

(3) Grievant P. Frazzitta claimed that he was working on stainless fans on the turn in question, but that the fan housings were in the blacksmith shop for straightening, and thus, he was not able to start his work during the first hour of the turn. 13

Management denies that grievant Frazzitta had no work to perform during the hour in question. Management, thus, urges: 14

"Grievant Frazzitta's job assignment on the morning in question involved shearing stainless steel plates for fabricating replacement blades on furnace fans for the S. M. Annealing. Employee Vode was assigned to help grievant Frazzitta with the shearing work that morning. The fact that the fan hubs were at the Blacksmith Shop for straightening in no way interfered with or prevented grievant Frazzitta from proceeding with the needed shearing work."

At the hearing grievant Frazzitta reported that his job on the day in question had been started by him the day before. He stated, "I reported at about 7:00 a.m. and first prepared my tools for the day's work...then I decided to have a cup of coffee." Grievant claimed that he had not wanted to commence work because he "had some questions to ask Foreman Starr." But, grievant added, "When Starr came by the first time, I did not approach him, I could see he was in a bad mood...he gave nobody a chance to say anything." Frazzitta reported further that certain parts he needed were in other areas where they had been left the night before. He admitted that he did not go to look for these parts, however, until sometime after Foreman Starr approached the group the second time. Grievant testified finally, "I did leave that area between 7:30 a.m. and 7:55 a.m., but I had returned and was in the group when Starr came by the second time." At the hearing grievant Frazzitta made no claim that there actually was no work which he could have performed during that first hour of the turn. 15

Thus, except for his claim that he "prepared his tools for the day's activity," grievant Frazzitta does not claim that he otherwise performed work during the first hour of the turn. 16

(4) Grievant D. Petro, on the date of the hearing, reportedly, no longer was employed by the Company. Thus, he did not appear to testify. In the lower steps of the Grievance Procedure, Petro claimed to have been unable to start his assignment at 7:00 a.m. on February 2, as he was "awaiting the burning of certain materials he needed, in the weld shop." 17

In the case of grievant Petro, Management asserts: 18

"Grievant Petro's job on the morning in question consisted of fabricating water screens for the North Sheet Mill. It was not necessary for him to await completion of burning work before commencing work on such job at the beginning of the turn in question." 19

At the hearing principal Company witnesses reiterated and confirmed assertions set forth above, in support of Management's position that grievants herein were not improperly docked one hour's pay each for the turn in question. 20

The total thrust of the Union's case at the hearing centered upon an argument that "grievants were not responsible for the job delay/s/ occurring at the start of the turn and," therefore, they should have been paid for the full eight hours."

Specifically, it was asserted that such "delays," in effect, resulted from (1) a lack of adequate crane service, and (2) the absence of necessary materials needed by the grievants.

FINDINGS

The record of evidence in this case, in our view, fails to establish that grievants, and each of them, had no work to perform during the first hour of the disputed work turn. Indeed, it appears admitted by all three present at the hearing that work, though not the particular work they each desired to perform at the time, was available to them. And, there can be no doubt that it was Management's desire that they each commence performing such work. They were each admittedly expressly so directed by the turn Foreman as early as 7:30 a.m.--and neither responded prior to about 7:55 a.m. that day. 21

The determinant facts of the matter, then, are that (1) grievants were scheduled to report and commence work at 7:00 a.m.; (2) that there was some work available for each of them; (3) that each understood and knew (indeed, they were told) that Management expected them to perform such work; and (4) that each failed and refused, substantially, to perform any work during the hour in question. Upon these facts, and upon the entire evidence presented, we find no basis upon which to sustain the instant grievance. Accordingly, the grievance must be denied. 22

8.

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AWARD

The grievance is denied.

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