

3-31-1971

# United States Steel Corporation Eastern Steel Operations Lorain-Cuyahoga Works and United Steelworkers of America Local Union 1104

Sylvester Garrett  
*Chairman*

Hillard Kreimer  
*Arbitrator*

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

---

## Recommended Citation

Garrett, Sylvester and Kreimer, Hillard, "United States Steel Corporation Eastern Steel Operations Lorain-Cuyahoga Works and United Steelworkers of America Local Union 1104" (1971). *Arbitration Cases*. 86.  
[http://knowledge.library.iup.edu/garrett\\_series/86](http://knowledge.library.iup.edu/garrett_series/86)

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-8137

March 31, 1971

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION  
EASTERN STEEL OPERATIONS  
Lorain-Cuyahoga Works

and

Grievance No. TL-69-401

UNITED STEELWORKERS OF AMERICA  
Local Union No. 1104

SUBJECT: OVERTIME ASSIGNMENT

Statement of the Grievance:

"Grievant claims he should have made outside trip resulting in overtime. Instead a younger employee was sent on the trip.

"On 12/02/69 before the end of 7-3 turn another employee was sent out of town on a trip. The foreman bypassed the grievant.

"Payment for time lost due to not being assigned on this trip."

Contract Provisions Involved: Section 2 B of the Basic Labor Agreement of August 1, 1968.

Grievance Data:

DATE:

Date filed:	December 4, 1969
Appealed to Step 3	January 14, 1970
Step 3 Meeting	January 16, 1970
Appealed to Step 4	March 20, 1970
Step 4 Meeting	September 16, 1970
Appealed to Arbitration	October 21, 1970
Case Heard:	February 25, 1971

Statement of the Award:

The grievance is denied.

BACKGROUND

In this grievance, a Truck Driver from the Transportation Department, Central Maintenance Division, Lorain Works contends he was wrongfully denied an opportunity for overtime, in favor of a less senior Driver. 1

The events occurred on December 2, 1969. According to the Grievant, he was in the garage about 2:00 P.M. and learned of an upcoming outside trip from the Company's Dispatcher. Grievant was assigned to a truck capable of driving over the road, as well as within the plant. The truck had a radio in it, enabling the Dispatcher to reach him at any time. Grievant allegedly left the Garage to perform an assignment within the plant, returning to the Garage by 2:30 P.M. At that time, stated Grievant, he learned of the outside trip assignment to a less senior Driver, which would result in overtime. Grievant claimed he was the most senior Driver inside the plant at the time, since those more senior than he had opted for outside trips at the beginning of the turn. 2

The Union claims that the assignment of the less senior Driver, without first offering the outside trip to Grievant, violated a long standing practice protected under Section 2-B. The Union asserts that each Driver, in order of his seniority, has the right to choose the vehicle he wishes to operate, at the beginning of each turn he works. Should Management know an outside trip is involved, which may require overtime, the Union says this is revealed at the turn's beginning so that the more senior Drivers may have the first option to drive the vehicles assigned to such trips. As the Union understands the past practice, should the necessity for an outside trip with the likelihood of overtime arise during the turn, Management offers such a trip to the most senior Driver on the turn first and then goes down the seniority roster until a Driver is secured, without any attempt to equalize overtime. While Management is to make the attempt to equalize overtime within the unit, in the Union's view, this is handled when overtime assignments are made available to less senior Drivers on vehicles restricted to operation within the Plant. 3

In addition to oral testimony presented to prove its version the 2-B practice, the Union referred to a 1967 grievance involving the Transportation Department, in which a younger employee was called in late and assigned an outside trip instead of giving it to a more senior driver. The Superintendent's decision read: 4

USS-8137

"Grievant will be paid 6 hours straight time on the basis that in the future, outside trips that involve overtime will be assigned to the next driver in line in the seniority unit without due regard for equalizing overtime. This will not apply if the situation is a straight time versus overtime situation where the straight time man would be assigned."

The Union also relied on a 1962 4th Step grievance settlement, which, in material part, provides:

"Important Aspects of Discussion: Following a lengthy discussion it was agreed to settle this case on the following basis. The oldest employee in the Garage and Transportation Section will be given first preference as to which runs they wish to take. It was agreed that once these employees had indicated their particular preference they would not change their preferences indiscriminately. However, if no work is available on the run they have indicated they prefer, they will be assigned to any other run that is needed....."

Following further discussion, it was agreed that Management would attempt to distribute overtime equitably in this unit. However, it was recognized that in the course of performing certain runs which commence at straight time, particularly those which require employees to travel outside of the plant, overtime might occur later in the run. When this does happen, employees will be assigned to the run and the resulting overtime will be recorded and counted toward the equitable distribution of overtime. Then, when a turn which commences at overtime comes up, that turn will be assigned to employees who have less overtime....."

The Union argues that, when an outside trip requiring overtime arises during the turn, it is not normally a sudden event. Supervision, in its view has sufficient advance notice to properly

USS-8137

offer the trip to the most senior man on the turn. In the Union's opinion, since Grievant's vehicle had a radio, the Dispatcher could easily have contacted him to offer the opportunity to make the outside overtime run. In any event, the Union claims, Grievant returned to the Garage at 2:30 P.M. in time to handle the trip.

According to Company testimony, the Coordinator of Mobile Equipment Operations first learned of the outside trip between 2:15 and 2:20 P.M. on the day in question. He allegedly received a phone call indicating a replacement water pump for a Marion Shovel had to be picked up from a Cleveland supplier. The part was purportedly needed as quickly as possible to put the shovel back in operation, which in turn, would prevent a Blast Furnace shutdown. This supplier's closing time, it was indicated, was 5:00 P.M. The Coordinator stated he sought the first available Driver. By checking the locker room, he found one man there. This Driver was given an unassigned available automobile and directed to go to Cleveland to pick up the part. The Coordinator testified the Driver left the area by 2:30 P.M., returned at 7:00 P.M. and was paid four hours overtime for the trip.

6

The Company contends that when an outside overtime run arises after the start of a turn, and a vehicle is designated to make that run, the Driver already assigned to that vehicle makes the trip, regardless of his seniority status. In the event there is sufficient advance notice of such a trip, states the Company, it attempts to give preference to available senior men. However, the Company claims, if an unassigned vehicle is to make the outside trip, and it is of an emergency or rush nature, any Driver can be assigned to the vehicle and instructed to make the trip. The Company cited eight specific instances, from June of 1968 to November of 1968, in which such trips were given to an unassigned vehicle and a Driver other than the most senior one on the turn. (The Union argues that the evidence submitted on this point did not show whether or not the more senior men refused the opportunity, nor did it show whether the more senior men were actually in the Plant or already on outside runs. Hence, it claims, the evidence is questionable.)

7

8

With respect to the Section 2-B practice claimed by the Union, the Company takes the position that the Union has the burden of proving the existence of the practice by clear, sufficient evidence, which it has failed to do. Aside from the mere assertions by the Grievant and an Assistant Grievance Committeeman, which in its view are insufficient, the Company claims no other proof was submitted concerning the contended Union practice. In the Company's judgment, the 1967 grievance settlement is not appropriate to this problem. The Company points out that the 1962 settlement language, when speaking of assignment of men to runs which begin at straight time and result in overtime outside the plant, in the second paragraph, states, "employees will be assigned to the run and the resulting overtime will be recorded". The Company then argues that the language makes no mention of assigning such runs to the most senior man, as the Union would interpret it. The Company emphasizes the language speaks of "employees", not of "senior employees".

9

The Company finally relies on the fact that the Coordinator, at the time in question, had to quickly find a driver to make the necessary run with the least amount of delay. The Coordinator stated that if a Driver, even with a radio in his vehicle, is not inside that vehicle when called, he cannot be reached quickly. Further, from the Truck Schedule for the day, the Coordinator stated that a Driver more senior than Grievant was assigned to a vehicle in the Plant without a radio, so that the most senior man could not have been reached to receive the first offer to make the outside run, the Company contends it would have been unreasonable to require the Coordinator, under the circumstances, to search out the Grievant. Based upon past Company policy, it is argued, the Coordinator acted properly in locating and dispatching the first available man, who, it happened, was not the most senior man.

#### FINDINGS

10

The importance and urgency of the outside trip is not challenged. The Driver assigned to the run was the only man available in the locker room. He apparently departed from the area to make the trip before Grievant actually appeared. The Company's evidence that a Driver more senior than Grievant was not first offered the run was unrefuted. According to the Company, the Coordinator first learned of the trip about 2:15 P.M. and dispatched a Driver before 2:30 P.M.

USS-8137

Even assuming Grievant learned of the outside overtime run before the Coordinator, there is no testimony that Grievant then indicated his availability and interest in making the run to anyone in Management.

The narrow issue is whether Management, in an emergency or rush situation arising during the turn, can dispatch an unassigned vehicle, and the first available Driver, to take an outside trip resulting in overtime, without first taking seniority into consideration. The Union did not satisfactorily prove the existence of a seniority practice which estops the Company from making the emergency outside trip assignment in the manner it did. The evidence submitted by the Company further indicates it had actually handled similar problems in the past in the same fashion as it handled this problem.

11

From a practical standpoint as well, the Company's procedure in assigning this particular trip made sense. Faced with the urgency of the problem, Management's decision to assign the trip to the first available Driver together with an available unassigned vehicle was reasonable.

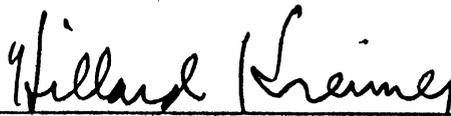
12

AWARD

The grievance is denied.

13

Findings and Award recommended by



Hillard Kreimer, Arbitrator

This is a decision of the Board of Arbitration, recommended in accordance with Section 7-J of the Agreement.



Sylvester Garrett, Chairman