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United States Steel Corporation Sheet and Tin Operations Fairless Works and United Steelworkers of America Local Union 4889

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BOARD OF ARBITRATION

Case USS-5196-S

November 23, 1965

ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
Sheet and Tin Operations
Fairless Works

and

Grievance No. SFL-64-297

UNITED STEELWORKERS OF AMERICA
Local Union No. 4889

Subject: Hours of Work; Safety and Health.

Statement of the Grievance: "We, the undersigned, employees request all monies we lost on 2nd turn Nov. 27, 64 when Management sent us home and retained junior employees. We also request Management cease discriminating against our unit."

This grievance was filed in the First Step of the grievance procedure December 3, 1964.

Contract Provisions Involved: Section 3 of the April 6, 1962 Agreement as amended June 29, 1963.

Statement of the Award: The grievance is denied.

BACKGROUND

Case USS-5196-S

This grievance on behalf of four Track Laborers in the Transportation Department of Fairless Works claims that Management improperly sent grievants home after 16 consecutive hours of work, but before the end of their originally scheduled shift on November 27, 1964.

Grievants Smith, Miller, Talerico and Simpson are members of the Track Labor Gang. Most of the Track Laborers work a 7 a.m. to 3:30 p.m. schedule, Monday through Friday. During the 1964 Thanksgiving Week the four grievants were scheduled off on Thursday, November 26, since this was Thanksgiving. They worked the first three days of the week as scheduled. Around 3 p.m. on November 26, a derailment inside the Stripper Building caused substantial track damage which required immediate repair and the four grievants were contacted to report for work. Simpson and Miller reported at 6 p.m.; Smith and Talerico at 7 p.m. The four grievants worked on the emergency track repair until 5 a.m. Friday and then were given another work assignment which lasted until around 7:30 a.m.

7:00 a.m. was the scheduled starting time of grievants' regular shift on Friday, November 27, and they continued to work past 7:30 a.m. with the regular Track Gang. When they had completed 16 consecutive hours of work, after reporting for the emergency call-out, each was relieved from duty and sent home. Simpson and Miller were relieved at 10:30 a.m., and Smith and Talerico were relieved at 11:30 a.m. The four grievants now seek to be made whole for all of the remaining hours of their scheduled turn on Friday.

The Union emphasizes that the 7:00 a.m. to 3:30 p.m. turn on Friday was a scheduled turn for the grievants. There is no question that work was available which they could have done through the entire scheduled turn. Since the employees were physically able to continue working and desired to do so,

the Union can see no basis for relieving them from duty. And even if there had been a lack of work for the entire crew, says the Union, the grievants were entitled to remain on the job because of their relatively greater length of continuous service in comparison with other employees who were kept at work.

The Company stresses that the grievants were called out to work on Thanksgiving only because of an emergency. In recent years the Transportation Department has adopted a policy of not working employees more than 16 consecutive hours when relief is available, except to complete projects which shortly will be finished. The Company believes that, under Section 3, it is entitled to relieve employees from duty after 16 consecutive hours of work because cumulative fatigue tends to make such employees an unnecessarily poor risk from the safety and health standpoint. It stresses that the Union cites no specific contractual provision to support the grievance, nor is there any controlling past practice. Finally, the Company suggests that the present grievance is inconsistent with the view which the Union has expressed on other occasions as to unnecessary overtime.

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FINDINGS

The only issue which the parties wish the Board to decide is whether it was proper for grievants to be relieved from duty on November 27, 1964, without working all of their scheduled shift. No issue is presented as to proper compensation for the hours actually worked, or as to application of Section 10-E.

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There seems to be no doubt that grievants, under normal circumstances, would have been entitled to work the full shift, in accordance with their seniority rights, since there was ample work for the crew. Thus the case turns on whether Management has discretion to enforce a policy not to work employees beyond 16 consecutive hours for safety and health reasons when there is relief available and no emergency situation is involved. If the present grievance were granted, it would follow that the Company was obliged contractually to work the grievants 20 (or 21) hours out of a 24-hour consecutive period.

It would seem, therefore, that safety and health considerations legitimately may be heeded in such a situation. A policy of avoiding more than 16 hours of consecutive work, where reasonably possible, seems as much in the interest of the employees as of Management.

AWARD

The grievance is denied.

BOARD OF ARBITRATION


Sylvester Garrett, Chairman