3-2-1965

United States Steel Corporation Sheet and Tin Operations Irvin Works and United Steelworkers of America Local Union 2227

Sylvester Garrett

Follow this and additional works at: http://knowledge.library.iup.edu/garrett_series

Recommended Citation
http://knowledge.library.iup.edu/garrett_series/407

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, sara.parme@iup.edu.
ARBITRATION AWARD

UNITED STATES STEEL CORPORATION
SHEET AND TIN OPERATIONS
Irvin Works

and

UNITED STEELWORKERS OF AMERICA
Local Union No. 2227

Grievance No. A-63-146

Subject: Seniority.


"Facts: Senior employees are being scheduled for four (4) days per week, whereas, junior employees are being scheduled five (5) days per week.

"Remedy Requested: Management adhere to scheduling practices as outlined in USC-1670. Employees be made whole for lost wages."

This grievance was filed in the Second Step of the grievance procedure October 23, 1963.

Statement of the Award: The grievance is sustained.
This grievance from the Cold Reduction Department of Irvin Works claims that Management's scheduling grievant for four days during the week of October 13, 1963, while employees with less service in Unit No. 9 (Sheet and Tin Annealing) were scheduled on other operations for five days, violated Sections 1, 2-B, 4, 10, and 13 of the April 6, 1962 Agreement, as amended June 29, 1963, and failed to abide by the Board's Award in USC-1670.

Grievant works on the Continuous Annealing Line, which is one of four promotional sequences in Seniority Unit No. 9. During the week of October 13, 1963, the Continuous Annealing Line was scheduled for eight turns, so that two, five-man crews worked four turns each, Tuesday through Friday, and grievant worked four turns as Job Class 17 Heat Holder. Since operations on some of the other three promotional sequences in Unit 9, such as Sheet Annealing and Tin Annealing, were scheduled for five turns that week and were worked by some employees with less Unit 9 service than grievant, the Union urges that Sections 2-B and 13, and USC-1670 required that he be scheduled for a fifth day on one of those jobs (for example, JC 6 Wireman or JC 5 Hooker in Sheet Anneal or Tin Anneal promotional sequences) in place of a junior unit-service employee who was scheduled on such jobs.

Management would distinguish USC-1670 on the grounds that there the senior grievants on the Continuous Annealing Line were scheduled on only two or three turns while other operations, which were scheduled four or five days, were manned by some employees junior in Unit 9 service; that there it was anticipated that that level of reduced operations on the Continuous Annealing Line would continue for an indefinite period of time; and that there the Company had not reduced the Continuous Annealing Crews from three to two.

In contrast, the Company says that here the senior grievant on the Continuous Annealing Line was scheduled and worked four days; here the level of four-day operations on the Continuous Annealing Line was not contemplated as lasting into
the indefinite future and, in fact, it did not; and here Management actually had reduced Continuous Annealing Crews from three to two early in 1963, so that employees displaced from the third crew then were able to exercise their seniority rights to other jobs in the Unit.

Finally, the Company says that there is no practice applicable to Continuous Annealing Line employees, whereby they would be entitled, when that line is scheduled for only four days, to assert their greater unit service to claim a fifth turn on some other job in the Unit which worked five days and which then was held by a junior unit-service employee.

**FINDINGS**

Since this problem is in essence a sequel to USC-1670, it is worth quoting here its Findings in full:

"This case seems to have arisen primarily because of the parties' inability to reach agreement permitting transfer into Unit No. 9 of the accrued seniority of Unit No. 8 employees who left Unit No. 8 jobs to fill Continuous Annealing jobs in Unit No. 9. The practical problems which this posed for Management and for the former Unit No. 8 employees are readily apparent in this record.

"Thus, in good part, Management did not wish to lay off one or two crews on October 21, since this would disperse some of the former Unit No. 8 employees through the plant labor pool—a problem which did not exist as to the 'native' Unit No. 8 employees assigned to this new unit. It was this problem which was eliminated by the November 21, 1962 special agreement. The Board cannot say, however,
whether delay in reaching this agreement was the result of unreasonable actions or positions taken by either Management or the Union, or by both. The case was not presented on this basis, and it hardly would be practical to explore such an issue in a case of this sort. Such an exploration, in any event, would not be controlling of the issue here; namely, whether the seniority rights of individual grievants were infringed during the period commencing October 21, 1962.

In the past, Unit No. 9 employees customarily had been scheduled on several jobs in the unit in accordance with their seniority so as to provide four or five days work, when their regular jobs operated only two or three days. This same practice was applied after November 21, 1962 to the Continuous Annealing Crews in at least one instance. It would appear that the true reason it was not applied from October 21 to November 21, 1962 lay in the lack of agreement that Unit No. 8 employees could apply their accrued continuous service in Unit No. 9. This factor did not apply, however, to 'native' Unit No. 9 employees.

The Basic Agreement provides no support for scheduling senior employees for two or three days per week when such reduced operating level admittedly may persist for an unforeseeable period, and when lower rated jobs in their seniority unit are being worked five days per week. Faced with such a condition, and seeing no prospect for improvement, the normal reaction would be to reduce crews, so that the displaced employees could exercise their seniority rights to other jobs. Under the evidence in this case, the practical alternative available to local Management (as recognized in practice) was to schedule the Continuous Annealing employees on other jobs to complete a normal week's work for them. In the present case, therefore, local Management was obliged
"either to reduce the force assigned to Continuous Annealing or to provide these employees with other work, in accordance with their seniority rights, to supplement the two-day schedule on their regular job. To schedule senior employees only for two or three days per week over an indefinite period, when their seniority rights under established practice would entitle them to additional work, thus is violative of Section 13 of the Basic Agreement as implemented by relevant local practice.

"Management undoubtedly faced difficult problems over this four-week period because of its desire to maintain the Continuous Annealing Crews intact. The seniority provisions of the Agreement, however, are designed in good part to confer employment security benefits upon the employees, with the inevitable consequence of some inefficiency and burden upon Management in some cases. Thus, failure to comply with seniority requirements cannot be excused simply because such action would be costly or time-consuming. The evidence reveals, moreover, a tendency to magnify some of the asserted difficulties here, aside from the heart problem of the lack of a satisfactory seniority understanding until November 21, 1962. This grievance accordingly will be sustained and grievants made whole for loss of earnings based on a determination of the jobs to which they would have been assigned during the weeks in question in accordance with their seniority rights including relevant seniority practices protected under the Basic Agreement.

AWARD

"The grievance is sustained in accordance with the foregoing Opinion."
It must be admitted at once that there are distinctions which an advocate reasonably might draw between that case and this one, and they have been noted by the Company here. Most of them seem, however, to be distinctions without real differences. That is, absent questions of practice, Management's three major grounds for distinguishing USC-1670 from this problem might be persuasive. There can be no blinking the fact, however, as was recognized by the parties' efforts in this proceeding, that USC-1670 was not based solely upon seniority rights established in Section 13, alone. That Award was based upon Section 13 rights, as implemented by established practice.

The Company argues, however, that whatever practice was found to exist in that case cannot bear on this one, where grievant was scheduled for four days and seeks a fifth.

It does not appear to the Board, however, to be so crystal clear that in USC-1670 the Union was claiming that senior unit-service employees were entitled to be scheduled on other jobs so as to make up only a four-day week. On the contrary, and although not entirely free from doubt, it seems that the claim was that senior unit-service employees were entitled, when their regular jobs operated less than five days per week, to be scheduled on other jobs in the unit, held by junior unit-service employees and operating more turns than those held by the senior unit-service employees, so as to get as full a week as there would be available work, whether that be four days or five. This conclusion is based upon statements of the Union claim in the grievance proceedings and brief in USC-1670 and upon evidence submitted there.

The following Union statements suggest that conclusion:

"The Continuous Annealing Line is being scheduled two days per week, whereas, other jobs in Unit 9 are being scheduled five days per week. Senior employees are being denied proper earnings."

(Written grievance)
"To schedule the Continuous Annealing Line Crews on other jobs in Seniority Unit #9 (Sheet and Tin Annealing) to complete at least a 4 day week for each man." (Third alternative discussed in Step 3 meeting which Union testimony indicated was its version of the established practice.)

"As an alternative the Union Representatives proposed that the existing scheduling practice continue in effect, with the Continuous Annealing Line Crews having the right to 'bump' junior service employees within Seniority Unit No. 9 during the course of any given workweek to the end that the Continuous Annealing Line employees received four or five days' work within the seniority unit. In this connection the Union Representatives mentioned that, generally speaking, all other employees of Seniority Unit No. 9 are scheduled and work five days per week." (Paragraph 4, page 2, Step 4 Minutes.)

"The wording of Paragraph 4, Page 2, does not clarify the Union Position as regarding C.A. Line Crews 'bumping' junior employees in Seniority Unit 9. The Union Witnesses stated that the senior employees could be scheduled for their fourth and fifth day in the Unit in preference to junior employees." (Emphasis in original.) (Union corrections to Step 4 minutes.)

"In support of the Union's argument on Section 2-B, it has always been the practice to share the work equally in the Department. It has always been and is now on all of our units where there is an expected prolonged curtailment in operations, to reduce the number of crew and provide at least 4 days of work, per week, for all employees." (Union corrections to Step 4 minutes)
"Also at this discussion, Grievant Rarick advised Mr. Houk that junior service employees were working five (5) days per week and employees with seniority since the inception of the Irvin Works were receiving only two (2) to four (4) days of work per week and it has been a past practice in Seniority Unit #9 to share the work equally and schedule or work the senior service employees for the most time available." (Union Brief)

"Throughout the entire grievance procedure the Union has taken the position that Management should abide by the past practice of placing senior employees of Unit #9 on lower jobs in Unit #9, by scheduling these senior employees for 4 or 5 days when the schedule is posted." (Union Brief.)

"Under Section 2-B of the Basic Agreement, the senior employees of Unit #9 enjoyed the benefits of receiving their fourth or fifth day in the Unit in preference to the junior employees." (Union Brief.)

"Management disregarded the past practice, enjoyed by senior service employees, of Seniority Unit #9, of scheduling them for available work in preference to junior service employees." (Union Brief.)

In addition to the quotations above, the table included in the Step 3 minutes in USC-1670 shows that during one of the weeks there in dispute, although only six Continuous Annealing Line turns were scheduled, the Line actually worked 11-7/8 turns plus one start-up turn with a three-man crew. It
seems evident that for that week one or more of the three operating crews must have worked at least four turns. The Board is without information, however, as to whether the parties consider that week as one calling for some monetary relief under the Award in USC-1670. It seems that they have fallen into dispute as to proper implementation of that Award, with the Union insisting that calculation of amounts due under that Award be based on five days per week and Management asserting that the calculation should be made on the basis of four days per week.

It is true that there were three Union statements in the grievance proceedings in that case which would tend to a contrary determination, but on balance, the conclusion reached above seems to be the proper one regarding the Union claim in that case.

Turning next to specific items of evidence relating to practice claims in USC-1670, it should be noted that all practice evidence came from the Union; none was submitted by the Company. In the present proceeding, however, the parties' positions were reversed, with the Union insisting that practice evidence from it was unnecessary since it had submitted that material in USC-1670 and had been sustained, and objecting to practice evidence from the Company on the ground that the matter had been concluded by the Board's Award in that case, which had sustained the grievance there, in part, at least, upon a finding of a practice.

Without reciting all background details, the following general picture emerges from all practice evidence in both records.

There are four promotional sequences in Seniority Unit 9. As to the two oldest promotional sequences in the Unit, Sheet Anneal (promotional sequence a) and Tin Anneal (promotional sequence b), both lumped together by local label as "Batch Anneal," the parties agree that the Union's version of the practice long has prevailed. These two promotional lines, moreover, are the only promotional lines which apparently
persisted in this unit from its initial establishment until 1960 or 1961. Thus, it is agreed that in those promotional sequences senior unit service employees, whose regular jobs will operate less than five days, are scheduled on other jobs in the unit which will operate five days and which then are held by junior unit service employees.

The specific promotional sequence involved here, Continuous Annealing (promotional sequence e) was the latest to be established in Seniority Unit 9. It began operations in late May of 1962 and ran at five days per week consistently until it was shut down in mid-September for several weeks for equipment changes. When it resumed operations in the latter part of October, it was run at two or three turns per week for four weeks and without application of the asserted practice. But, those weeks triggered the grievance which was sustained in USC-1670. Thus, those weeks cannot bear against the Union claim here. It is clear, however, that if investigation were to be confined to the relatively short life of Continuous Annealing operations, no practice could be found, simply because there had not been sufficient occasions up to that time for application of any practice, one way or the other. But, it is also clear, as Management agrees, that the Board's finding of a practice in USC-1670 could not have been, and was not, based upon investigation confined solely to experience on Continuous Annealing operations.

Most Union evidence relating to practice in the initial proceeding related to experience on Open Coil Annealing (promotional sequence d; there is no promotional sequence c). This was the first new promotional sequence to be added to Seniority Unit 9. According to Company testimony in this proceeding, Open Coil Annealing began limited operations with a furnace crew only, in August of 1961. (Union testimony in USC-1670 put this back to July of 1960, but that difference is perhaps unimportant.) Company evidence shows that from November of 1961, when Open Coil Annealing began to operate with a full crew, the line ran at least five days per week consistently until the week beginning May 27, 1962.
Union testimony and schedules in USC-1670, corroborated by Company evidence in the present proceeding, shows that there were ten weeks in the Summer of 1962, when Open Coil Annealing operated less than five days per week. This included eight consecutive weeks beginning May 27 and ending July 22 and a two-week period in August. During those weeks, employees regularly assigned to Open Coil Annealing were scheduled for all possible combinations of scheduled turns on their regular Open Coil Annealing jobs, plus "makeup" turns on Batch Anneal jobs, sufficient to constitute a five-day week for those Open Coil Annealing employees who, absent such "makeup," would have had less than five days, i.e., from one to four, on their regular Open Coil Annealing jobs. That is to say that, with three exceptions which will be discussed in a moment, those ten weeks show Open Coil Annealing employees scheduled one turn on OCA plus four on Batch Anneal, two turns on OCA plus three on Batch Anneal, three on OCA plus two on Batch Anneal, and four on OCA plus one on Batch Anneal. In light of the admitted practice on the two old Batch Anneal promotional sequences (Sheet Anneal and Tin Anneal, which were the only other lines in this unit at the time), this scheduling picture on a newly established promotional sequence, when first faced with an identical problem, takes on critical importance in evaluating the conflicting claims asserted here and in USC-1670.

Minute analysis of the schedules covering the ten weeks when OCA operated something less than five turns per week discloses only three exceptions or partial exceptions to a completely uniform application of "making up" to five turns.

The first week was that of May 27, 1962. In that week the line operated only three days, with some men working two or three turns on their regular OCA jobs, and there was scheduled "makeup" of only one or two more days on Batch Anneal jobs, for a total of only four days, rather than five. It must be noted, however, that this was the first time since regular operations on the OCA line had begun when it did not operate at least five days per week.
The next partial exception occurred in the week of July 15, 1962, which was the last week of the eight consecutive weeks of reduced OCA operations, and there seven employees were scheduled on nine OCA turns, varying from one OCA turn to four such turns. Six of the seven were scheduled also for the proper number of Batch Anneal turns, ranging from one through four, to "makeup" a five-day week. The exception was one employee who was scheduled for three OCA turns and only one Batch Anneal turn. Whether or not the explanation for that single employee's situation was personal preference, as a Management witness speculated, or some other reason, is impossible to state.

The last partial exception occurred during the week of August 5, which was the first week of the second period of reduced OCA operations, and there eleven men were scheduled for 15 OCA turns. One was scheduled for five OCA turns; seven were scheduled for three or four OCA turns, plus one or two Batch Anneal turns to "makeup" a five-day week; two had three OCA turns and no "makeup"; and one had four OCA turns and no "makeup." It is perhaps significant here that two of the three employees who were not "made up" to a total of five turns appear to have been newcomers or strangers to OCA operations.

It seems that the one "exception," involving the single employee who was "made up" to only four days is too insignificant to justify ignoring that week as an application of the claimed practice, and the other two exceptions are not appreciably stronger. This is especially true in light of the admitted fact that Sheet Anneal and Tin Anneal operations always have followed that practice for long years. It must be concluded, therefore, that the "makeup" technique, employed in a very great preponderance of the occasions for its application to OCA operations in the ten weeks of the Summer of 1962, which was the first time on that operation that opportunity either to apply the established practice in the unit to new operations or to confine it to old ones had arisen, indicates the local parties' application to a new operation in Seniority Unit 9 of the practice traditionally followed in the two
original operations in that Unit. When coupled with the finding of a practice in USC-1670, that evidence persuades the Board that the seniority practice apparently applicable to all other operations in Seniority Unit 9, exists also in the last operation added to that Unit, Continuous Annealing.

There were deviations from that technique in OCA operations in November of 1962, but that was after the grievance in USC-1670 had been filed and, therefore, after the parties had fallen into dispute on this question.

Management says that it does not dispute the practice in what it says are more flexible operations in Sheet Anneal and Tin Anneal but suggests that it should not be applied to the allegedly more rigid manning demands of Continuous Annealing operations. But this proves too much, for "makeup" turns appear consistently to have been made up on the flexible Sheet Anneal and Tin Anneal operations and thus would not interfere with allegedly rigid Continuous Annealing operations.

Should it be said, even discounting the exception and partial exceptions, that ten weeks in 1962 are too little and too late to establish a binding seniority practice relating to Continuous Annealing operations, it must be pointed out that the OCA experience in the Summer of 1962 is not the basis for the finding of the practice but is an indication, too strong to be ignored, that the practice admittedly followed on both Batch Anneal operations, was applied also to the then new OCA operations in the same seniority unit, forcing the like conclusion regarding solution of the identical problem when it first arose on the newer Continuous Annealing operation.

It must be concluded, therefore, that the seniority practice applicable throughout Seniority Unit 9 supports grievant's claim that he, as a senior unit-service employee, was entitled to be scheduled for a fifth turn on some other appropriate job in the unit then held by a junior unit-service employee and operating five days. Accordingly, the grievance
will be sustained and grievant made whole for loss of earnings based upon a determination of the jobs to which he would have been assigned during the weeks in question in accordance with his seniority rights including relevant seniority practices protected under the Basic Agreement.

AWARD

The grievance is sustained.

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

Clare B. McDermott
Assistant to the Chairman

Approved by the Board of Arbitration

Sylvester Garrett, Chairman