

United States Steel Corporation and Tommy M. Garrison. Case 32-CA-1895

September 30, 1980

DECISION AND ORDER

BY CHAIRMAN FANNING AND MEMBERS
JENKINS AND PENELLO

On April 10, 1980, Administrative Law Judge Leonard N. Cohen issued the attached Decision in this proceeding. Thereafter, the General Counsel filed exceptions and a supporting brief, and Respondent filed an answering brief.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge only to the extent consistent herewith.

For the reasons set forth herein, we find that employee Garrison was suspended and reprimanded as a result of his engaging in protected concerted activity and find that such disciplinary action violated Section 8(a)(3) and (1) of the Act. According to the credited facts, Respondent directed employee Pantell to work on a tractor. Pantell inquired whether he would be paid 4 hours' moveup pay for the task. Respondent replied that he would receive the higher pay only for the time actually spent performing the task, and that Pantell should either get on the tractor or be given his timecard. Pantell requested his timecard, which was punched out and handed to him. Foreman Hooper then turned to Garrison and asked, "How about you?" Garrison inquired, "Well are you going to give me 4 hours move up?" Hooper responded, "Bye baby." Garrison was given his timecard, and he left the premises.

According to credited testimony, both Garrison and Pantell had routinely been paid a minimum of 4 hours' higher pay under similar circumstances, and they were informed by their union committeeman that, pursuant to mutual or local agreement, the minimum amount of time employees were to receive the special pay rate for working in a higher job classification was 4 hours.

The Administrative Law Judge and our dissenting colleague concede that, had Garrison's conduct been limited to a mere inquiry, protest, or complaint regarding Respondent's refusal to pay him a guarantee of 4 hours' moveup pay for driving the tractor, Respondent's suspension of him would have violated the Act. However, by an extraordi-

nary feat of legerdemain, the Administrative Law Judge found that Garrison's inquiry was not an inquiry, but was instead a refusal to perform work. The Administrative Law Judge reasoned that Garrison must have understood that Hooper did not consider the complaint as valid and that, after he was told to leave, he could have stated that he would perform the job.

There is no support for concluding that the mere assertion of a contract claim, regardless of Respondent's expressed attitude toward that claim, amounts to a refusal to work. This conclusion is based on sheer conjecture as to Garrison's unexpressed intent, for, unlike Pantell, Garrison conveyed no indication that he refused the assignment. As to the second point, there is no basis in law or logic for requiring a discriminatee to ask a respondent to reverse its actions before a violation may be found.

In sum, it is plain that Garrison was disciplined as a result of his legitimate inquiry and that such inquiry was protected union activity. Accordingly, we find that, by suspending and reprimanding Garrison because of his protected concerted activities, Respondent violated Section 8(a)(3) and (1) of the Act.

REMEDY

Having found that Respondent has engaged in unfair labor practices, we will order it to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act. Having found that Respondent violated Section 8(a)(3) and (1) of the Act by issuing a written reprimand to Tommy M. Garrison and suspending him for 3 days, we shall order Respondent to expunge from Garrison's file any record of the discipline taken against him and to make him whole for any loss of earnings he may have suffered by payment to him of a sum of money equal to that which he would have earned had he not been suspended, less net earnings, if any, during that period. Any backpay and interest thereon is to be computed in the manner prescribed in *F. W. Woolworth Company*, 90 NLRB 289 (1950), and *Florida Steel Corporation*, 231 NLRB 651 (1977).¹

The Board, upon the basis of the foregoing facts and the entire record, makes the following:

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce within the meaning of the Act.
2. Local 1440, United Steelworkers of America, AFL-CIO, is and has been at all times material

¹ See, generally, *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

herein a labor organization within the meaning of Section 2(5) of the Act.

3. By reprimanding and suspending Tommy M. Garrison on or about January 2, 1979, because of his inquiry regarding applicability of contractual rates of pay, Respondent has engaged in unfair labor practices under Section 8(a)(3) and (1) of the Act.

4. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, United States Steel Corporation, Pittsburg, California, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Suspending or reprimanding any employee for joining or assisting the Union or engaging in other protected concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Make Tommy M. Garrison whole for any loss of earnings suffered by reason of his suspension in the manner set forth in the section hereof entitled "Remedy."

(b) Expunge from its personnel files any record of the disciplinary action taken against Tommy M. Garrison on or about January 2, 1979.

(c) Preserve and, upon request, make available to the Board or its agents, for examination and copying, all payroll records, social security payment records, timecards, personnel records and reports, and all other records necessary to analyze the amount of backpay due under the terms of this Order.

(d) Post at its Pittsburg, California, plant copies of the attached notice marked "Appendix."² Copies of said notice, on forms provided by the Regional Director for Region 32, after being duly signed by Respondent's authorized representative, shall be posted by Respondent immediately upon

receipt thereof, and be maintained by it for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

(e) Notify the Regional Director for Region 32, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

MEMBER PENELLO, dissenting:

I dissent from the finding that Respondent violated the Act and would adopt the findings and conclusions of the Administrative Law Judge and dismiss the complaint.

The facts are clear. Employees Garrison and Pantell were standing together when Foreman Hooper told Pantell to get up on the tractor to perform a task normally undertaken by another employee who is paid at a higher rate. Pantell asked if he would get 4 hours' "move-up" pay. Hooper answered that Pantell would receive the higher rate of pay only for the time actually spent on the task. Pantell replied that Respondent was supposed to pay a minimum of four hours' moveup pay. Hooper then stated, in the presence of both employees, that Pantell could either get on the tractor or be given his timecard. Pantell answered, "Give me my card." Hooper punched out Pantell's timecard and handed it to him. Pantell left the area.

Immediately thereafter Hooper asked Garrison, "How about you?" Garrison asked, "Well, are you going to give me four hours moveup?" Hooper replied, "Bye, baby." As Hooper gave him his timecard, Garrison made no response, but took his card and left the area.

This matter hinges on the simple question of whether Garrison indicated, by his words and actions, that he was refusing to perform the assigned task unless he received the 4 hours' moveup pay. My colleagues conclude that Garrison was merely making an inquiry and was disciplined for doing so. I disagree. Because Garrison was present during the exchange between Hooper and Pantell, he understood that Hooper would not grant the 4 hours' moveup pay and that the alternatives for any employee faced with the request to get on the tractor was to perform the work or punch out. Unless there was some reason to believe that the same conditions would not apply to Garrison or that Hooper would have changed his mind in the course of a few seconds, a reasonable person would assume that Garrison was faced with the same alternatives presented to Pantell. Garrison chose to repeat the pay question. Hooper could safely con-

² In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

clude that Garrison too was setting conditions under which he would operate the tractor. Hooper responded with a quick, "Bye, baby." If Garrison had felt his question had been misunderstood he could have easily told Hooper that he was not refusing to perform the work. Garrison said nothing, took his timecard, and left the plant. If Hooper was the sort who would suspend an employee for merely making an inquiry, he would have suspended Pantell immediately instead of waiting until Pantell made an explicit refusal to perform the work. Although Hooper appears to be a man of few words, all the participants in this encounter understood the import of the words spoken. I think my colleagues attribute a rigidity and formality to this situation that is totally at odds with the realities of the workplace.

I dissent.

APPENDIX

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

WE WILL NOT suspend or reprimand any employee for joining or assisting the Union or engaging in other protected concerted activities for the purpose of collective bargaining or other mutual aid or protection.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights guaranteed them by Section 7 of the Act.

WE WILL make Tommy M. Garrison whole, with interest, for any loss of earnings suffered by reason of his suspension.

WE WILL expunge from our personnel files any record of the discipline taken against Garrison on or about January 2, 1979.

UNITED STATES STEEL CORPORATION DECISION

STATEMENT OF THE CASE

LEONARD N. COHEN, Administrative Law Judge: This matter was heard before me in Oakland, California, on January 8, 1980. On August 21, 1979, the Acting Regional Director for Region 32 of the National Labor Relations Board issued a complaint and notice of hearing based on unfair labor practice charges filed on June 27, 1979, alleging that Respondent by suspending Tommy M. Garrison because he engaged in protected concerted activity violated Section 8(a)(1) and (3) of the National Labor Relations Act, as amended, 29 U.S.C. 151, *et seq.*, herein called the Act.

All parties have been afforded full opportunity to appear, to introduce evidence, to examine and cross-examine witnesses, to argue orally, and to file briefs. Counsel for both parties filed briefs which have been carefully considered.

Upon the entire record of this case and from my observation of the witnesses and their demeanor, I make the following:

FINDINGS OF FACT

I. JURISDICTION

Respondent is a Delaware corporation with an office and place of business located in Pittsburg, California, where it is engaged in the manufacture of steel. Respondent admits and I find that during the past 12 months Respondent in the course and conduct of its business operations sold and shipped goods or services valued in excess of \$50,000 directly to customers located outside the State of California. Accordingly, I find that at all times material herein Respondent has been an employer engaged in commerce and in operations affecting commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE LABOR ORGANIZATION INVOLVED

Respondent admits and I find that Local 1440, United Steelworkers of America, AFL-CIO, herein called the Union, is and has been at all times material a labor organization within the meaning of Section 2(5) of the Act.

III. THE UNFAIR LABOR PRACTICES

A. Background

At the time of the December 30, 1978, incident,¹ the Charging Party, Tommy M. Garrison, was employed as a grade two laborer in the coal reduction department of Respondent's Pittsburg, California, facility. Respondent and the Union have been parties to a series of collective-bargaining agreements covering Respondent's production and maintenance employees, the last of which agreements has a term of August 1, 1977, to July 31, 1980. This agreement contains, *inter alia*, a detailed grievance arbitration provision,² a no-strike clause specifically prohibiting employee participation in strikes, work stoppages or interruption or impeding of work, and a management-rights clause in which Respondent retains the exclusive right to direct its working forces. Additionally, in effect at all material times were plant rules and regulations that

¹ All dates stated herein refer to 1978, unless otherwise specified.

² Sec. 6, "Adjustment of Complaints and Grievances," provides at subsection C, step one, par. 6.5, the following:

Any employee who believes that he has a justifiable complaint shall discuss the complaint with his foreman, with or without the grievance or assistant grievance committeeman being present, as the employee may elect, in an attempt to settle same. However, any such employee may instead, if he so desires, report the matter directly to his grievance or assistant grievance committeeman and in such event the grievance or assistant grievance committeeman, if he believes the complaint merits discussion, shall take it up with the employee's foreman in a sincere effort to resolve the problem. The employee involved should be present in such discussion, if he is available.

provided, *inter alia*, that "insubordination (refusal or failure to perform work assigned or comply with instructions of supervisory forces)" may be cause for suspension preliminary to discharge.

The General Counsel contends that Garrison was suspended for 2-1/2 days for questioning, in good faith, his supervisor turn foreman, Billie Jack Hooper, as to whether he would receive a guaranteed minimum of 4 hours pay at a higher grade level when temporarily performing more skilled work, and that by making such an inquiry Garrison was engaged in protected concerted activity.

Respondent, on the other hand, contends that Garrison refused, by his words and/or actions, a legitimate work assignment which rendered his conduct unprotected.³ Respondent further argues that the collective-bargaining agreement's provisions required Garrison to perform the assignment in question and then grieve the matter.

B. Garrison's Suspension

At or about 10 a.m. on December 30 Thomas Trimble, a millwright, went to Hooper's office and informed him that he needed someone to drive the RAM tractor and bump, or disengage, a C-hook from a crane.⁴

The events immediately following Trimble's request are in some dispute. Four individuals, Trimble, Hooper, Garrison, and one other laborer, George Pantell, were present in the area of Hooper's office and participated or witnessed the conversations in question.

Neither the testimony of Garrison nor Hooper was particularly persuasive, and neither version is credited except to the extent that it is corroborated by the testimony of Trimble.⁵ With regard to Trimble, he impressed me with his ability to clearly recall the events of December 30 and has no interest in the proceeding which would warrant the shading or fabrication of his testimony.⁶ The following account is, therefore, from Trimble's credited testimony.

Immediately upon Trimble seeking assistance, Hooper, accompanied by Trimble, approached Garrison and Pantell who were standing nearby.⁷ Upon reaching the group Hooper, addressing Pantell, told him to get up on

³ This case does not concern a claim under Sec. 502 that the work in question involved "abnormally dangerous conditions."

⁴ Driving the RAM tractor to perform this job, which normally lasted between 30 minutes and an hour was normally performed by a tractor driver. On the morning of December 30, the tractor driver was not assigned to the cold reduction department mill. In the past, Respondent routinely utilized laborers, including Garrison, to drive the RAM tractor when no tractor driver was available.

⁵ The crediting of only portions of Garrison and Hooper's testimony is required under the circumstances of this case. *Carolina Cannery, Inc.*, 213 NLRB 37 (1974): "Nothing is more common than to believe some and not all of what a witness says." *Edwards Transportation Company*, 187 NLRB 3, 4 (1970), *enfd.* 437 F.2d 502 (5th Cir. 1977). The specific areas of concern I find, with the testimony of Garrison and Hooper will be noted and discussed *infra*.

⁶ Trimble, who was employed by Respondent at the time of the hearing, gave testimony adverse to the interest of Respondent. In these circumstances it is unlikely that his testimony would be false. See *Georgia Rug Mill*, 131 NLRB 1304, 1305 (1961), modified on other grounds 308 F.2d 89 (5th Cir. 1962).

⁷ Pantell, Trimble, and Hooper all place Garrison in the group when Hooper first addressed Pantell.

the tractor.⁸ Pantell answered by asking Hooper if he would get 4 hours moveup pay for the task.⁹ Hooper answered that Pantell would receive the pay at the higher job classification only for the time actually spent while performing the task. When Pantell then stated that Respondent was supposed to pay the employees 4 hours moveup, Hooper replied that Pantell would either get on the tractor or be given his timecard. Pantell answered, "Give me my card."¹⁰ Hooper then punched out Pantell's timecard and handed it to him.¹¹ Pantell then took his timecard and left the group. Hooper then turned to Garrison and stated, "How about you?" When Garrison answered, "Well, are you going to give me 4 hours move-up?" Hooper merely said, "Bye, baby." Garrison was then given his timecard, left the area without making further comment and caught up with Pantell who was then walking out of the mill.¹²

⁸ Contrary to the other witnesses' testimony, Garrison testified that Hooper had earlier approached him while he was standing in a group with Pantell and employee Baker and asked him if he wanted to drive the tractor. When Garrison asked if Hooper was going to pay him for doing the job, Hooper merely responded that he would get the regular tractor driver and left the area without first speaking to either Pantell or Baker. Garrison further testified that a short time later, someone, he could not recall who, told him that Pantell had already been sent home by Hooper. It was at this point that Garrison testified Hooper again approached him with the job assignment.

⁹ Both Garrison and Pantell credibly testified that on several occasions each week they were temporarily assigned work duties in a higher job classification. According to both, although these assignments frequently took less than 4 hours to perform, they were routinely paid for a minimum of 4 hours work at the higher rate.

Approximately 1 or 2 months before the December 30 incident either Garrison, Pantell, or both had been temporarily assigned the task of "bumping the C-hook." On that occasion Respondent did not pay the 4-hour minimum, but merely paid on the basis of actual time spent on the job. Sometime shortly after this incident Garrison and Pantell spoke to their union committeeman, Ralph Torrano, about this issue. Torrano informed them that by mutual or local agreement, the minimum amount of time employees were to receive for working in a higher job classification was 4 hours.

Respondent contends that no such local agreement exists and denies that there is such an established practice. Sec. 9, subsec. B, par. 9.15, of the collective-bargaining agreement provides "the established rate of pay for each production or maintenance job . . . shall apply to any employee during such time as the employee is required to perform such job." Further inquiry or resolution of this issue is not relevant or germane to the case at bar.

¹⁰ In Hooper's version, Pantell stated that he would not get on the tractor unless he would get paid for 4 hours and that Pantell specifically affirmed that he was in fact refusing the job assignment.

¹¹ Although the record is silent as to the exact location of the time-clock, it appears that it was quite close to the area where these conversations took place. All witnesses agreed that both Pantell and Garrison had their timecards punched out and handed to them during their respective conversations with Hooper.

¹² Garrison's version is similar to Trimble's. According to Garrison, after Hooper asked him to knock off the C-hook, Garrison again asked Hooper if he would get the moveup pay. When Hooper answered he would get the actual time spent on the job, Garrison replied that it was his understanding that he was supposed to be paid for a minimum of 4 hours. At this point, Garrison testified Hooper told him, "bye-bye, baby," and punched out his timecard. Hooper's version differs in one material respect from the versions of Trimble and Garrison. According to Hooper, he first answered Garrison's question of how Garrison would be paid with the statement that Garrison would get the time actually spent on the tractor. At this point, according to Hooper, Garrison said, "I am not going to get on the tractor unless you pay me that 4 hours." Hooper then answered, "Well, in that case, bye-bye, baby."

Continued

Shortly after Garrison left Hooper's presence, the regular tractor driver reappeared and performed the task in issue.

Early in January, Respondent issued a reprimand to Garrison and suspended him for two additional days after December 30 on the ground that he had engaged in insubordination for failing to comply with the instructions of a supervisor.¹³ Thereafter, a grievance was filed on the suspension which was subsequently withdrawn at the third step over Garrison's objections.

IV. DISCUSSION AND CONCLUSIONS

As set forth in detail above, Garrison was present when coworker Pantell refused to perform the job assigned on the grounds that he would not receive 4 hours' moveup pay. Garrison was also present when Pantell was clocked out and was sent home because of his refusal. Immediately following the conversation between Pantell and Hooper, Garrison was given the same assignment. The credible evidence establishes that when Garrison repeated Pantell's earlier question and inquired as to whether he, Garrison, would receive the 4 hours' moveup time, Hooper clocked him out and sent him home as well.

It is well-settled that an employee is engaged in protected concerted activities when he, either acting alone or in concert with his fellow employees, complains or inquires about possible contract violations and a violation of the Act is established if the employer penalizes the employee for asserting such rights under the contract.¹⁴ Likewise, it is equally well-settled that the merits of the underlying claim or dispute are irrelevant to the issue of whether the employee was engaged in protected concerted activity.¹⁵ Had Garrison's conduct been limited to a mere inquiry, protest or complaint regarding Respondent's refusal to pay him a guarantee of 4 hours' moveup pay for driving the RAM tractor, Respondent's conduct in suspending him would have violated the Act.¹⁶ However, I do not view the instant facts as so limiting Garrison's conduct on the morning of December 30. On the contrary, I find that Garrison, in those circumstances, by his words and conduct, refused to perform the task assigned. Having just heard the conversation between Pantell and Hooper, Garrison fully understood that Hooper did not consider the complaint concerning the guaran-

teed moveup time as valid. Garrison further fully understood that a refusal to perform the assigned task would result in his being immediately sent home. Nonetheless, Garrison chose to repeat the exercise of asking Hooper as to the method of payment he would receive for performing the task. Had Garrison's intent in asking this question been other than a refusal to perform the task, he had ample opportunity to clarify the situation immediately following Hooper's remarks of "bye-bye, baby" with a simple statement he would in fact perform the job. Notwithstanding this opportunity, Garrison stood moot, allowed Hooper to punch out his timecard and left the plant.

By refusing the assignment, I find that Garrison's conduct on the morning in question constituted insubordination. Garrison was well aware that grievance machinery was available for him to protest the method of payment to be received for performing the assigned task. However, he made a conscious choice to ignore those provisions of the contract, as well as the specific provisions prohibiting slowdowns and work stoppages. By refusing the assignment, Garrison was in effect attempting to work only on his own terms. His conduct therefore was unprotected. *Yellow Freight Systems, Inc.*, 247 NLRB No. 28 (1980).¹⁷

The General Counsel argues that the Board's conclusion in *Duchess Furniture, Division of National Services Industries, Inc.*, 222 NLRB 42 (1976), that "the employee's delay in performing the work was not insubordination" is applicable here. I disagree. First, the charging party there specifically stated that she was not refusing the job assignment but merely wanted to discuss whether the job was a production job covered by the collective-bargaining agreement. Secondly, the administrative law judge relying on *John Sexton and Company, supra*, and *Dust Tex Service, Inc.*, 214 NLRB 398 (1974), concluded, "under the existing collective-bargaining agreement Faber had an arguable right to refuse the unilateral work assignment which may have removed her from the unit covered by the collective-bargaining agreement." (Emphasis supplied.)

The instant matter is factually distinguishable from the situation raised in *Duchess Furniture, supra*, as well as from the situations in the two cases relied on by the Administrative Law Judge in deciding *Duchess*. *Dust Tex Service, supra*, involved the refusal of a group of employees to accept not only unilateral changes in their wages but the prospect of losing their employee status as well. In *John Sexton* the Board held that an employee had the arguable right under the collective-bargaining agreement which prohibited a situation in which driving would be

As set forth above, I find Trimble's version, as corroborated by Garrison, the more probable version and I, therefore, do not credit Hooper's testimony that Garrison ever specifically stated that he would not perform the job assignment unless he received the 4 hours' moveup time. In this regard, I have taken into account Respondent's failure to recall Hooper as a rebuttal witness to deny certain admissions he allegedly made concerning his inability to accurately recall the specifics of the December 30 incident. The General Counsel, in his rebuttal portion of the case, recalled Garrison who testified that during a conversation with Hooper in a first-step grievance meeting on January 2, Hooper admitted that he could not then recall whether Garrison ever specifically refused the job assignment.

¹³ No evidence was offered as to what action, if any, Respondent took regarding Pantell's conduct on the same day.

¹⁴ *Potlatch Corp.*, 236 NLRB 707, 709 (1978); *ARO, Inc.*, 227 NLRB 243 (1976).

¹⁵ *ARO, Inc.*, *supra* at 243; *John Sexton and Company, A Division of Betrice Food Co.*, 217 NLRB 80 (1975).

¹⁶ *Cory Jamison Corp.*, 238 NLRB 320 (1978).

¹⁷ In his brief, the General Counsel argues that *Yellow Freight, supra*, is factually distinguishable from the instant case on the dual grounds that (1) the delay there in performing the assigned tasks was 20 minutes rather than a few seconds and (2) that the employee's protest was not a reasonably based contract claim. As to point one, unlike the situation here, the employee in *Yellow Freight* never actually refused to perform any task. As to point two, the administrative law judge specifically concluded that "even if initially his conduct were viewed as a reasonably based assertion of a contractual right, the manner in which he made such an assertion rendered his conduct unprotected."

"in violation of any applicable statute" to refuse to drive without a valid driver's license.

Here, driving the RAM tractor would neither have removed Garrison from coverage of the collective-bargaining agreement nor would the performance of that task have violated any provision of the contract.¹⁸

In these circumstances, I find that Respondent suspended Garrison for cause and not for engaging in protected concerted activity in violation of the Act. Accordingly, I will recommend that the complaint be dismissed in its entirety.

¹⁸ Likewise, the Board's recent decision in *Ontario Knife Company*, 247 NLRB No. 168 (1980), and the cases cited therein are factually distinguishable from the case at bar. None involved a situation where the employees were covered by a collective-bargaining agreement with both extensive grievance-arbitration provisions and a clear, unambiguous no-strike clause.

Upon the foregoing findings of fact and upon the entire record in this case, I make the following:

CONCLUSIONS OF LAW

1. Respondent United States Steel Corporation is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Local 1440, United Steelworkers of America, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

3. Respondent did not violate the Act when it suspended employee Garrison on December 30, 1978, for failure to comply with the supervisor's order.

[Recommended Order for dismissal omitted from publication.]