

BEFORE THE ARBITRATOR

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 In the Matter of the Arbitration :  
 of a Dispute Between :  
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 LOCAL UNION NO. 662, : Case 2  
 INTERNATIONAL BROTHERHOOD OF TEAMSTERS : No. 51178  
 : A-5250  
 and :  
 :  
 WISCONSIN TRUSS, INC. :  
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Appearances:

Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., by Mr. Scott D.  
 Hoel Law Offices, by Mr. Raymond L. Hoel, on behalf of the Company.

ARBITRATION AWARD

The above-entitled parties, herein "Union" and "Company", are privy to a collective bargaining agreement providing for final and binding arbitration. Pursuant thereto, hearing was held in Cornell, Wisconsin, on October 24, 1994. The hearing was not transcribed and the parties presented oral argument in lieu of briefs. I then issued a bench decision, which this Award augments.

ISSUE

Since the parties were unable to jointly agree on the issue, I have framed it as follows:

What is the appropriate seniority date for Jeff Hink?

DISCUSSION

Hink, a production worker, spends the bulk of his time operating a fork lift.

A personality clash developed between Hink and Union Chief Steward Harry Poppe, a Sawyer. The reason for that clash is clear. However, the testimony of various witnesses establishes that Poppe, who no longer works for the Company, gave Hink a hard time by: (1) latching sliding doors in front of the building so that Hink would have to come around through a back entrance; (2) stacking lumber out of place in order to increase Hink's work; (3) repeatedly complaining over Hink's work even though there was nothing wrong with it; (4) repeatedly calling Hink a "brown-noser"; and (5), marking a piece of wood with words to the effect, "Would the fork lift driver like this truss for his house?"

Efforts were made to resolve this personality clash - which at one point resulted in a shouting match - but to no avail even though Hink at one point was assigned to a different shift so that he would have less contact with Poppe. Moreover, Hink never brought this problem to the attention of Union Business Agent Michael R. Thoms before he quit and he never filed a grievance against Poppe, as he apparently was entitled to do under Article 16 of the contract, entitled "Stewards", which prohibits union stewards from interfering with the Company's business. In addition, Production Manager Robert A. Williams acknowledged that he never brought this problem to higher management's attention.

Hink eventually quit on March 17, 1994, without much explanation. General Manager James C. Verhulst subsequently telephoned him at home, at which

time Hink related that he had quit because of Poppe's harassment. Verhulst there offered him an opportunity to return to work and Hink eventually did so on April 26, 1994. Verhulst explained that he did not immediately reinstate Hink because he hoped that "the fires" -- i.e., the dispute between Hink and Poppe -- would burn out. After his return, Poppe's brother-in-law, Lavern Capek, was overheard saying, "We've got to get this fucker [i.e., Hink] out of here."

A dispute subsequently developed between the Company and the Union over whether Hink's seniority should start anew as of April 26, 1994, as the Union wanted, or Hink's original hire date of May 19, 1992, as the Company wants. Union members on April 10, 1994, voted 8-2 that Hink's seniority should start anew. The Union therefore filed the instant grievance on May 4, 1994, wherein it asserts that Hink's seniority must be pegged to the latter date.

In support thereof, the Union mainly argues that: (1) Hink quit on his own and that his seniority therefore was completely severed under Article 16, Section 4, of the contract which governs voluntary quits; and (2), Hink's delay in returning to work distinguishes his situation from other arbitration cases where employees were allowed to rescind their voluntary quits and return to work with unbroken seniority.

I disagree. As stated at the hearing, I find it was reasonable for Hink to have concluded that there was no point in complaining to the Union over this problem since Poppe, his main protagonist, was the Union's chief steward. 1/ Furthermore, it is readily understandable why he quit on March 17, 1994, since his problem with Poppe still persisted at that point, without any prospect that it would be resolved.

Since Hink was not at fault in creating this problem, there is no point in continuing this controversy and penalizing him by stripping him of two years' seniority, as the Union proposes. The Company thus acted properly in restoring Hink's original seniority date of May 19, 1992.

In light of the above, it is my

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1/ See Clayton v. Automobile Workers, 451 U.S. 679 (1981); and Glover v. St. Louis - San Francisco Railway, 393 U.S. 324 (1969), where the United States Supreme Court ruled that union members are not required to complain to a union when it would be futile to do so.

AWARD

That Jeff Hink's seniority date is May 19, 1992; the Union's grievance is therefore denied.

Dated at Madison, Wisconsin this 8th day of November, 1994.

By Amedeo Greco /s/  
Amedeo Greco, Arbitrator