BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS LODGE NO. 1855

and

KRC (HEWITT) INC.

Case 53
No. 55529
A-5613

(Greg Maltbey Discharge)

Appearances:

Previant, Goldberg, Uelmen, Gratz, Miller & Brueggeman, S.C., by **Attorney Frederick Perillo**, 1555 North RiverCenter Drive, Suite 202, P.O. Box 12993, Milwaukee, WI 53212, appearing on behalf of the Union.

Godfrey & Kahn, S.C., by **Attorney Dennis W. Rader**, 333 Main Street, Suite 600, P.O. Box 13067, Green Bay, WI 54307-3067, appearing on behalf of the Company.

ARBITRATION AWARD

Pursuant to the provisions of their collective bargaining agreement, Machinists Local 1855 (hereinafter referred to as the Union) and KRC (Hewitt) Inc. (hereinafter referred to as the Employer or the Company) requested that the Wisconsin Employment Relations Commission designate a member of its staff to serve as arbitrator to hear and decide a dispute concerning the Company's decision to discharge Greg Maltbey. The Commission designated Daniel Nielsen. A hearing was held on December 1, 1997, in Neenah, Wisconsin, at which time the parties were afforded full opportunity to present such testimony, exhibits, other evidence and arguments as were relevant to the dispute. A stenographic record was made of the hearing, which was received by the undersigned on December 12, 1997. The parties submitted briefs and reply briefs, the last of which was received by the arbitrator on February 2, 1998, whereupon the record was closed.

Now, having considered the evidence, the arguments of the parties, the relevant contract language, and the record as a whole, the arbitrator makes the following Award.

To maximize the ability of the parties we serve to utilize the Internet and computer software to research decisions and arbitration awards issued by the Commission and its staff, footnote text is found in the body of this decision.

ISSUE

The parties stipulated that the Arbitrator should frame the issue. The Company proposes that the issue be stated as:

> Did the Company violate the collective bargaining agreement when it discharged Greg Maltbey?

The Union asserts that the issue is:

> Was there just cause for the discharge of Greg Maltbey? If not, what is the appropriate remedy?

There is no substantive difference between the two statements. As the Union's statement parallels the relevant language of the contract, it is adopted as the statement of the issue.

PERTINENT CONTRACT LANGUAGE

ARTICLE XI
Discharge

Section 1. No employee will be discharged, disciplined, or suspended without just cause.

Section 2. At the time of discharge for any reason, or suspension, or discipline, the Company will, in writing, notify the Chairman of the Shop Committee of the name of the employee and the reason for his discharge, discipline or suspension.

All disciplinary action taken under the provisions of this Article shall be subject to the grievance procedure. If it is determined that any employee has been wrongfully discharged, the employee shall be reinstated. If it is determined that the employee has been disciplined too severely, payment of

back pay, if any, for time found excessive shall be made. It is understood that the Shop Committee and the representative of the International Association of Machinists and Aerospace Workers prior to filing the grievance have the right to discuss the matter with Management.

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WORK RULES

A minimum number of Plant Rules have been established. These are intended for the welfare and protection of each and every employee and are basic to the orderly conduct of daily business. Each rule has been carefully considered and will be enforced uniformly and fairly on a plant wide basis.

There are three levels of violations of these work rules:

Level 1 - Violations will result in immediate termination if it is determined an employee has violated one or more of these rules.

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Level 2 - Violation will result in suspension and/or termination.

1. Stealing, including tampering with or using slugs in vending machines.
2. Disobedience or gross insubordination.
3. Willful or reckless destruction or damage to Company or customer property.

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Level 3 - Any work rule violated in this category will result in disciplinary action:

1. First offense – written/verbal warning.
2. Second offense - written warning.
3. Third offense - one day suspension
4. Fourth offense - employee subject to suspension or termination.

Rules falling into this classification are as follows:

1. Shirking or leaving assigned work areas to avoid work.

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4. Negligence resulting in substandard products, inferior work, the breaking of tools, damaging of equipment or wasting of supplies.

. . .

BACKGROUND FACTS

The Company refurbishes rolls for the paper industry, using a precision grinding process. During grinding, a lubricant is applied to the roll. The lubricant carries the grindings into a basin, and then to the pit below the Farrell grinding machine, where the lubricant passes through a moving paper filter and is recycled. Should the paper filter become clogged with grindings, or if a valve should fail, the lubricating fluid will back up and overflow into the pit. While there are warning lights to indicate whether there is sufficient water flow through the tanks and to show whether the paper filter is advancing properly, there are no indicators for flooding. Thus employes are required to check the pit during grinding to be sure the filter is working properly and that there is no overflow. This is done by either descending a ladder into the pit (approximately 50" below the floor) or by a visual inspection, removing the cover to the pit and shining a flashlight down to look for water.

The grievant, Greg Maltbey, was at the time of his discharge, a grinderman trainee with nine months of experience. The grinderman trainee position takes the place of a helper on a shift and is, as the name suggests, an internal training track to bring an employe into the ranks of experienced grindermen. The duties of the position were described in an April 1, 1996 memo from manager Gerald Poss:

> Subject: Job Responsibilities of Grinderman Trainees
>
> The grinderman trainees will assume the following responsibilities while in training;
>
> 1. Will take the place of the helper on the shift they are assigned.
> 2. Learn the mechanics of operating all roll grinders including the day to day maintaining of the grinder.
> 3. Learn how to setup (sic) and operate according to instructions provided by the trainor (sic).
> 4. Learn how to read instructions from work orders to learn the correct measurement of the crown size, face lenths (sic), etc.
> 5. Learn how to use the measuring equipment to check your work before and after the job is completed.
> 6. Learn the correct grinding wheels to be used for the different materials and the correct feeds and speeds.
> 7. Learn to maintain the coolant and how to change when required.
> 8. Learn how to check the roll hardness for different materials and roll finishes.
> 9. Keep the work area neat and clean.
> 10. Learn how to perform operator responsibilities for machine lubrication.
> 11. Learn how to clean the machine after every job is completed.
> 12. Assist all grindermen in roll changes and setups as required.

13. Learn how to properly handle rolls with jib hoist and overhead cranes.
14. Assigned any other duties.

After a roll grinder trainee has achieved a certain level of proficiency they may be assigned to run a roll grinder in the absence of the regular roll grinding operator provided the shift supervisor determines the individual is qualified to perform, at the skill level required for the job. Under these circumstances the shift supervisor will assign a helper take over the roll grinderman trainees (sic) normal duties if required. It should also be noted that all other responsibilities as asscoiated (sic) with the ISO will also be adhered to.

On June 25, 1997, the grievant was assigned to the second shift, assisting grindermen Bill Johnston and Terry Johnson. Johnston was assigned to two grinders, designated as F-6 and F-8. Johnson was working on F-5. Maltbey climbed down into the pit under F-8 at 5:00 p.m., and inspected it, finding nothing amiss. He did not check it again during the shift. At 6:30 or so, Maltbey helped Johnson change the rolls on F-5. At about 9:30 p.m. Johnston told him to wipe down a roll on F-6. Wiping down the roll takes about 45 minutes. At 10:30, F-8 shut itself down. Johnston had the supervisor come over, and they looked at the machine, but couldn't find anything wrong with it. The third shift operator replacing Johnston restarted the grinder and continued the polishing.

At about midnight, an hour after Johnson and Maltbey's shift had ended, F-8 shut itself down again. A failed solenoid caused the fill valve to stick in the open position, resulting in a continuous flow of coolant into the tanks. This in turn caused an overflow that flooded the entire pit. The water mixed with the oil for the grinder, causing a drop in oil pressure and the shutdown of the machine. The F-8 grinder was disassembled, cleaned, dried and inspected, and was out of service for 8 days.

The Company determined that the grievant, as the trainee assigned to the grinder, had failed to perform the required checks of the pit during his shift. It discharged him, contending that his training required him to check the pit three times per shift, and that his failure to do so resulted in the flooding. Bill Johnston was suspended as well. In discharging the grievant, the Company cited the rules against disobedience and "willful or reckless . . . damage to Company property." Both are Level 2 offenses under the work rules, calling for suspension or termination. The instant grievance was filed, challenging the termination. It was not resolved in the lower steps of the grievance procedure and was referred to arbitration. A hearing was held on December 1, 1997, at which time in addition to the facts recited above, the following testimony was taken:

Gerald Poss

Gerald Poss testified that Bill Johnston was assigned to two machines, F-6 and F-8, on the night of June 25th. Since there is a great deal of down time while the grinders make their passes over the rolls, a grinderman can run two machines on a shift, and it is not unusual to have such an assignment. As the operator, Johnston is responsible for the set-up and operation of the machine, and Maltbey as his assistant is responsible for doing whatever tasks are assigned to him by the operator. One of his jobs is to check the pit for flooding. Poss stated that he understood that the trainees are told in training that they must check the pit a minimum of 3 times per shift. This standard is not in writing, but is conveyed verbally by the grindermen. It is a simple task, and Poss testified that the simplicity of it is the reason that the Company chose to discharge him rather than imposing some lesser form of discipline. Even though Poss had never heard of a pit flooding for this reason before, or of damage to this extent, the loss could have been prevented merely by checking the water levels. While the grievant had other duties to perform during his shift, they were not urgent and there was no reason for him not to have monitored the pit.

Poss conceded that the grievant had no prior discipline, and that there had never been a prior case of discipline for flooding in a pit. He noted, however, that he was not aware of any prior case of a pit flooding. He agreed that the crew that replaced the grievant and Johnston did not detect the flooding for an hour after the third shift began. He expressed the opinion that the grievant's failure to check the pit was willful or reckless conduct, because the task was so simple. He estimated the Company's loss from this incident at $36,000, counting parts, maintenance time and lost income from the F-8 grinder.

Bill Johnston

Bill Johnston testified that he has 8 years of experience as a grinderman. The F-8 grinder was used for two rolls on the evening of June 25th. During the first hour, a steel roll was completed. After that, he used the grinder to polish a top-tech roll. While grinding a top-tech roll creates a great deal of very fine grindings, polishing should not generate any grindings and thus there is no concern about a clog in the filter. Since clogs in the filter are what causes flooding, there was no concern about flooding in the pit, and he never told Maltbey to check the pit under F-8 during the course of the shift. Johnston disagreed with Poss about a three check per shift minimum, and said he had never told Maltbey that there was some set number of times the pit should be checked. The need to check the pit depended upon what type of job was being done and the amount of grindings that would be generated. With a steel roll, very few checks would be run. On the other hand, if the machine was grinding polyurethane, he would have the pit checked every ten minutes.

Johnston also disagreed with Poss's statement that no pit had ever flooded before. He said that pits flood three or four times each year, and that management had to be aware of this

because they were the ones who called in trucks to pump out the water. Johnston said that to his knowledge no one had ever been disciplined because of an overflow, including one he experienced on Labor Day in 1996, when four feet of water filled the pit on his machine.

Johnston testified on cross examination that he would always check the pit at the beginning of the shift, or have his helper or trainee check it, by climbing down inside and inspecting it. Thereafter he would visually inspect it by removing the cover and looking down. Johnston expressed the opinion that since F-8 was just polishing a roll, and there was no risk of the filter clogging, he would have done exactly the same thing as Maltbey on June 25th.

Terry Johnson

Terry Johnson testified that he has been a grinderman for fourteen and a half years. He said that he generally checks the pit twice per shift if he is grinding, and does not check it at all if he is polishing. He recalled past instances where pits had overflows, including one on F-5 where an employe allowed the water to reach chest level, and left work without noticing it. He was not aware of anyone ever being disciplined as the result of an overflow, although he was likewise not aware of any case in which equipment was damaged by an overflow.

Greg Maltbey

Greg Maltbey testified that his training program was on the job, and that there was no formal training on the cooling systems of the grinders. He had never been told to check the pit a certain number of times per shift, although his usual habit was to check every time a new roll was started, and two or three times thereafter. Some nights, he would check only once. Occasionally, he would not check the pit at all. On the evening of June 25th, he was very busy with other assignments from Johnson and Johnston, and did not check the pit after his initial inspection at about 5:00 p.m. He was not directed to check the pit more often than he did, and he had no idea that there was any problem with F-8 or that he had done anything wrong.

Additional facts, as necessary, are set forth below.

POSITIONS OF THE PARTIES

The Position of the Employer

The Company takes the position that the grievant was guilty of recklessly causing damage to Company property. While the Union protests that the charge is too severe for this conduct, there is ample arbitral precedent for the Company's decision. An employe is held to

the exercise of simple common sense, and the failure to perform a very basic task bespeaks a greater degree of culpability than would a failure to perform a more technically demanding task. The task for which the grievant was responsible -- looking down into the pit every now and then to see if there is standing water -- takes mere seconds to accomplish and requires no technical aptitude. It is incorporated into his written job duties, he acknowledged that he was responsible for this task and he testified that he usually does this three or four times per shift. The whole purpose for checking the pit is because there is a danger of flooding. On June 25th, the grievant failed to check again after his initial inspection, with the foreseeable result that the pit flooded and the grinder was seriously damaged.

Given the utter simplicity of the task and the fact that the grievant knew both that he was to perform this task and why it had to be performed, the Union's various arguments about lack of training and lack of written requirements must be disregarded. The arbitrator must likewise disregard the suggestion that the shift was so busy on June 25th that the grievant could not be expected to take five or ten seconds to look down into the pit under F-8. Even under the very generous time estimates given by employes for helping to switch rolls on F-5 and wipe down the roll on F-6 (estimates which Poss testified were vastly inflated) the grievant had time for bathroom breaks, lunch and coffee breaks, and must have been able to squeeze in a few extra seconds to perform the basic duty of checking the pits.

The Union's claim of disparate treatment must be rejected. The Company has not disciplined employes in the past for overflows. However, there has never been an overflow that was not detected before significant damage was done. The reason for this is simple. The employes checked the pit, as they were supposed to, and detected the overflows. The overflow was not the grievant's fault. His fault lies in not noticing the overflow, and allowing it to continue to the point where the equipment was damaged.

The Company suffered a substantial monetary loss as a result of the grievant's recklessness. Approximately $26,000 of billable time was lost on F-8, and another $10,000 was spent in time and materials to repair the grinder. The grievant's failure to spend five seconds checking the pit for water cost the Company $36,000. The Company is entitled to weigh in the cost of the grievant's recklessness in determining the penalty, and a sizable loss calls for a sizable penalty. In this case, given the cost to the Company, the minor effort required to avoid the loss, and the fact that the grievant was a very short term employe, discharge is amply justified. Accordingly the grievance should be denied.

The Position of the Union

The Union takes the position that the discharge was not supported by just cause, and that the grievant must be reinstated. Although he was charged with gross insubordination and willful or reckless conduct, there is proof of neither. A charge of insubordination requires some clear order or command. It is undisputed that the grievant received no such order to check the pit under F-8 on June 25th. Checking the pit was a shared responsibility of the

trainee, helper and grinderman, depending upon who was available. The frequency of the checks was variable, depending upon what type of work was being performed. There was no clear standard for the grievant to follow, and thus no standard for him to disobey. He had performed his job for nine months, sometimes checking four times a night, sometimes not checking at all. He was not told he was violating any rule or standard, and he had no reason to think that he was. Given the lack of any order, rule or standard, and the fact that he had reason to think he was doing anything wrong, it is not possible to make out a case of insubordination against the grievant.

Just as the grievant is innocent of insubordination, so he is innocent of recklessness. A showing of recklessness requires knowing disregard of a recognized risk. Here, the grievant followed the procedures that he understood were standard for the type of operations being performed. He checked the pit when the roll was started. The risk of overflow for which he is responsible comes from the clogging of the filter paper. Here, there was no problem at all with the filter paper, nor could there have been, since the grinder was merely polishing a roll rather than grinding. The known risk of clogging was not present. The defect that actually caused the overflow, a bad solenoid in the valve, is outside of the normal experience of operators or trainees. It could not have been anticipated, and the grievant's failure to check for an unexpected risk is, by definition, not reckless.

Given that the night of June 25th was by all accounts a very busy night on the shop floor, it is understandable that the grievant would not have spent time performing what appeared to be an unnecessary check of the pit area. However, even assuming that he allocated his time poorly and should have made time for the check, there was no element of willfulness here and his conduct was at the very most somewhat negligent. The Company's rules do not allow for termination in the first instance for negligence. The Union speculates that the only reason the Company so overcharged this incident is that there is a settlement agreement between the Company and the Union requiring recklessness as a pre-condition to discipline for damage occurring when grindermen are assigned to more than one machine.

Finally, the Union notes that the discipline in this case is grossly out of proportion to the Company's response to past overflows. The testimony at hearing was that overflows occur three or four times a year, and that management is well aware of them when they occur. Prior to this case, no one had ever been disciplined, much less discharged, for allowing a pit to flood. The Company reasons that because there was greater damage in this case, there should be greater discipline. Putting aside the fact that the Company grossly overestimated the costs of repair, the degree of culpability cannot be traced backwards from the degree of damage. This would render the just cause standard a matter of chance, with the appropriate penalty depending not upon the employe's conduct, but upon the employe's luck. In light of the failure of the Company to ever discipline any employe in the past for allowing an overflow, the discharge penalty in this case cannot stand. For all of these reasons, the grievance should be granted, and the grievant should be reinstated and made whole.

DISCUSSION

There is very little dispute about the facts of this case. The grievant was discharged for insubordination and recklessness. His offense was failing to check the pit under grinder F-8 after 5:00 p.m. on the second shift, and thus failing to observe an overflow in the pit which ultimately caused extensive damage to the grinder.

Insubordination

An employe can commit insubordination in two ways -- either by intentionally refusing to obey an order or by otherwise manifesting contempt for supervisory authority. This case involves the first type of insubordination, and the Company's theory is that the grievant ignored orders when he failed to comply with standing procedures for checking the pit at least three times per shift. This charge is not borne out by the evidence.

First, a finding of insubordination requires that the refusal to follow orders be intentional, and a precondition of this is that the order be clear. There was no order in this case, beyond what the Company claims is a standing order to check the pit. It is not at all clear that there actually is a standing procedure requiring trainees to check the pit three times per shift. There is nothing in writing to memorialize this policy. Poss testified that he believed there was such a policy, and that the grievant admitted knowing he was supposed to check at least three times. However, Poss does not do the training of the grinderman trainees. The actual training is done by the experienced grindermen and, to a lesser extent, the line supervisors. No line supervisor testified that trainees are instructed in a minimum number of checks per shift. The grievant himself said that he was trained to check the pit every time a new roll was started, and that the number of checks thereafter depended upon the type of operation being performed, and the volume of grindings it would create. He acknowledged telling Poss that he usually checked the pit three or four times per shift, but he denied ever being told there was a set minimum for checks, and denied ever telling Poss that there was. The experienced grindermen echoed this testimony, and said that none of them knew of some minimum number of checks, and that none of them had told the grievant of a minimum number of checks. It simply is not possible to conclude from this that there was a clear policy, much less a direct order, requiring that the pit be checked three times per shift.

A second problem with the insubordination charge is that the grievant's conduct does not demonstrate the element of defiance that distinguishes insubordination from a common rule violation. Any time a rule is violated there is some measure of insubordination, in the sense that management has generally directed employes to obey the rules, and the employe is not abiding by that general order. However, a free-standing charge of insubordination requires more than that. The reason that insubordination is usually subject to more severe penalties than other work rule violations is that insubordination undermines the authority of management and impedes the supervisors' ability to oversee production. Even assuming that there had been a clear standard of checking the pit three times per shift, there is nothing in the grievant's

conduct on June 25th that suggests a desire to denigrate management's authority. He was not engaged in some pattern of refusals, he was not upset about anything, there was no confrontation. If there was a standard procedure, and if he failed to follow that procedure, there is no reason to conclude that his failure was an act of resistance against the Company's authority to make rules or direct the work force.

The Company urges that a clear standard is not necessary when common sense dictates that an employe follow a particular course of conduct. Certainly there are matters that are simply understood, and there are instances where an employe can be disciplined even in the absence of a rule. Theft of Company property or assaulting a co-worker are classic examples of conduct which needs no written rule in order to justify discipline. The issue here is not whether common sense dictates that an employe check the pit for flooding. He did check the pit -- he just did not check it again. The specific standard the Company is citing -- a minimum of three checks per shift -- is not a matter of common sense. No one would just reason their way to a firm three check minimum. It may well be a sensible standard, but one person might decide that two checks were sufficient, another might feel hourly checks were advisable, and another might arrive at the standard cited by the grindermen -- that the number of checks would vary depending upon the material being used and the operation being performed. The issue is whether the grievant deliberately violated an order, which is a higher and more specific standard than whether his conduct was appropriate under all of the circumstances.

Recklessness

An employe is subject to suspension or termination under Company rules for "Willful or reckless destruction or damage to Company or customer property." In this case there was damage to Company property 1/ and, notwithstanding the Union's characterization of checking the pit as a shared responsibility of all employes, it seems clear from the grievant's own testimony that he understood that this was primarily his responsibility. No one has suggested that the grievant willfully caused the flooding of the pit, and the question is whether his failure to check the pit after 5:00 p.m. constituted "reckless" damage to Company property.

1/ The Union suggests that the Company grossly overstated the cost of the repairs to the grinder, and failed to mitigate its damages, in that it dismantled the machine rather than just flushing it with kerosene as recommended in the service manual. This argument is beside the point. Whether the Company lost $15,000 or $25,000 or $36,000, there was clearly a significant cost from the flooding of the pit.

Recklessness is more than just ordinary negligence, both in the common parlance and in the Company rules. While reckless damage to Company property is a Level 2 offense under the rules, calling for suspension or discharge in the first instance, negligence is a Level 3 offense, requiring progressive discipline beginning with a warning:

Level 3 - Any work rule violated in this category will result in disciplinary action:

1. First offense – written/verbal warning.
2. Second offense - written warning.
3. Third offense - one day suspension
4. Fourth offense - employee subject to suspension or termination.

Rules falling into this classification are as follows:

. . .

4. Negligence resulting in substandard products, inferior work, the breaking of tools, damaging of equipment or wasting of supplies.

. . .

Reckless damage lies between negligent damage and intentional damage. It involves conduct that goes beyond simple failure to meet a reasonable standard of care, and evinces a disregard for or an indifference to the likely consequences.

At the common law, a claim of negligence may be analyzed by comparing the probability of realizing a loss and the foreseeable amount of such a loss against the burden of taking a safety step to avoid the loss. Where the probability of realizing a loss times the amount of the likely loss is greater than the burden of taking a safety step, the failure to take the safety step constitutes negligence. The Company's focus in this case is on the burden of checking the pit, which is minimal -- a matter of perhaps a minute of effort to walk over, remove the cover and shine a light down.

Granting the Company's point that the effort to check for flooding is very slight, it is also true that there has never before been a case of flooding caused by a faulty valve. Flooding in the pit is usually caused by the filter becoming clogged. Polishing is an operation that poses virtually no risk of clogging, and all three of the grindermen who testified (Johnson, Johnston and the grievant) said that they knew of no reason to expect an overflow in the pit during polishing. 2/ To the best of the employes' knowledge, there was virtually no probability of a loss from flooding under F-8 on June 25th.

2/ The Company suggests for the first time in its reply brief that Johnston was actually grinding on F-8, because the work order calls for removal of 0.006" from the roll's surface. The implication of this is that there was a greater need for checking the pit because there was a greater risk of clogging. Johnston and the grievant both testified that the roll was being polished, and they both explained why this was significant. Poss testified during the Company's case-in-chief and on rebuttal, and he did not characterize this as a grinding operation or dispute the employe's claim that this was a polishing operation. The arbitrator is not familiar enough with the process to say whether the work order reflects a polishing operation or grinding. The testimony is that it was a polishing operation, and the arbitrator accepts this as an accurate description.

The likely amount of a loss from flooding in the pit is hard to determine. There has never before been damage to a piece of equipment because of an overflow, even though pits have flooded before. It also appears that a piece of equipment has never before been left running after water has risen above the level of the oil reservoir. On balance, it is reasonably foreseeable that continuing to run a grinder after the oil reservoir is immersed in water would cause serious damage to the machine.

Weighing all of these factors, I conclude that the grievant was somewhat negligent in failing to check the pit under F-8 again during the shift. Having reached that conclusion, I note that it is a very close call. The grievant followed the procedure he had been led to believe was appropriate under the circumstances, and the fact that polishing was being performed would have caused him to think there was very little chance of an overflow. The conclusion that he was negligent is premised upon the very minimal effort required to check for overflows.

It should be clear that a record that just barely shows negligence will not support a finding of recklessness. The grievant failed to check the pit, but he did so in the context of a job which posed virtually no known risk of flooding, and which in fact had nothing to do with the flooding. The damage here was caused by an unforeseeable problem with the flow valve. While the grievant bears some responsibility for the resulting damage, it is not possible to characterize his conduct as reckless.

Remedy

The grievant is not guilty of insubordination, nor recklessness. The work rules allow discipline for simple negligence, but require that the Company apply specified corrective measures rather than summary discharge. The grievant has no prior disciplinary record, and I accordingly conclude that he should appropriately have been assessed a written/verbal reprimand for his part in the damage to the F-8 grinder.

On the basis of the foregoing, and the record as a whole, I have made the following

AWARD

There was just cause for imposing discipline upon Greg Maltbey, but there was not just cause for discharge. The appropriate remedy under the work rules is to immediately reinstate him, make him whole for his losses, and reduce the discipline to a written/verbal warning for negligence.

The arbitrator will retain jurisdiction for a period of thirty days for the sole purpose of resolving any disputes over the remedy.

Dated at Racine, Wisconsin, this 30th day of June, 1998.

Daniel Nielsen /s/
Daniel Nielsen, Arbitrator

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