IN THE MATTER OF THE ARBITRATION BETWEEN

UNITED STEELWORKERS OF AMERICA, LOCAL 2175,	)	FEDERAL MEDIATION AND CONCILIATION SERVICE CASE NO. 10-59453
Union,	)	
and	)	
THERMO KING CORPORATION,	)	DECISION AND AWARD OF ARBITRATOR
Employer.	)	

APPEARANCES

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On March 29, 2011, in Bloomington, Minnesota, a hearing was held before Thomas P. Gallagher, Arbitrator, during which evidence was received concerning a grievance brought by the Union against the Employer on behalf of the grievant, Mark A. Hinderaker. The grievance alleges that the Employer violated the parties' labor agreement when it combined two jobs that had previously been performed as separate jobs and assigned the

grievant to perform the combined work without a proper evaluation of that work. Post-hearing written arguments were received by the arbitrator on May 23, 2011.

FACTS

The Employer manufactures refrigeration equipment used mainly for the cooling of truck containers. It operates several facilities in the United States, one of which is located in Bloomington, Minnesota (the "Bloomington Plant"). The Union is the collective bargaining representative of most of the non-supervisory production and maintenance workers who are employed at the Bloomington plant. The Union and the Employer have been parties to a series of labor agreements covering these employees at least since the early 1960s. The agreement that was in effect at the time the present grievance arose has a stated duration from November 5, 2006, through October 23, 2010.

The following subsections of the labor agreement are relevant to the present grievance:

> 3.04. Job classifications and job descriptions shall be governed by provisions of the Job Description and Classification Manual for Hourly Rated Production and Maintenance Jobs, dated April 1, 1963; and revised April 1, 1970; August 1, 1979; and September 1, 1982; between the parties to this Agreement.
>
> 3.05. The Company shall have the right to change job descriptions and classifications or to establish new jobs, at its discretion, using the system utilized in the establishment of the classification set forth in the Job Description and Classification Manual for Hourly Rated Production and Maintenance Jobs, dated April 1, 1963; and revised April 1, 1970; August 1, 1979; and September 1, 1982; between the parties to this Agreement.
>
> 3.06. The Company recognizes the right of the employees to utilize the grievance procedure as outlined in this

> Agreement in the event there is disagreement on changes in job classifications or descriptions, provided, however, that employees may have up to thirty (30) days from the date of installation of the new or changed classification to file such grievance.

The Job Description and Classification Manual referred to in Subsections 3.04 and 3.05 (hereafter, the "Manual") was adopted and has been amended by agreement of the parties several times. The last such amendment was made in 1982. The parties agree that the 1982 version of the Manual was effective during the times relevant to this grievance.

The grievant has been employed at the Bloomington Plant since 1969. For the past twenty years, he has worked in the Tube Department, where employees fabricate metal tubing used to carry refrigerant; during that time, he has worked in the classification, "Tube Bender A."

In the years since 2001, the Employer has experienced a substantial reduction in its business, which has led to the layoff of many employees and the reduction of the number of employees working in the Tube Department. Twenty years ago, when the grievant first began working as a Tube Bender A, there were three or four other employees working as Tube Benders, a classification paid in a lower Labor Grade than that of the Tube Bender A classification. In 2009, when the events occurred that gave rise to the present grievance, only one employee other than the grievant worked in a Tube Department classification -- Michael Dwinell, who was classified as a "Header Tube Fabricator." (The parties sometimes use the Employer's Job Numbers to refer to the Tube Bender A job (Job Number 208) and to the Header Tube Fabricator job (Job Number 221)).

On August 28, 2009, Dwinell retired. In the previous months, the grievant, in anticipation of Dwinell's retirement, learned from Dwinell some of the skills needed to perform the work of the Header Tube Fabricator so that he could perform that work as well as his work as a Tube Bender A if, as he expected, the Employer decided not to replace Dwinell.

Douglas S. Running, a Union member who has been employed at the Bloomington Plant for forty-three years, testified that during July of 2009, he did a job evaluation that assumed the combination of the Tube Bender A job with the Header Tube Fabricator job, using the system established by the Manual. He testified that since 1997 he has done fifty to sixty such job evaluations, acting as a volunteer to provide the Union with his opinion of the proper evaluation indicated by the Manual's criteria.

Roger A. Grapper, Operations Manager of the Bloomington Plant, testified that in the summer and fall of 2009, he tried to obtain tube fabrication work to be done at the Bloomington Plant from some of the other plants operated by the Employer. When Dwinell retired on Friday, August 28, 2009, Grapper was uncertain whether he could obtain enough of such work to allow him to replace Dwinell with a full-time employee working as a Header Tube Fabricator. Grapper testified that, because of this uncertainty, he assigned the grievant to work at least temporarily both as a Tube Bender A and as a Header Tube Fabricator. Accordingly, the grievant began to do the work of both classifications on Monday, August 31, 2009.

Section 16 of the parties' labor agreement, which is entitled "Seniority," contains twenty-seven subsections. They establish, among others, procedures for layoff and recall, for promotion and demotion, for the posting of and bidding for permanent job vacancies and for the temporary transfer of employees. Subsections 16.15 and 16.16, which establish conditions and procedures for temporary transfers, are set out below:

> 16.15. In the event of illness, injury, vacation, or leave of absence, it might be necessary to transfer employees on a temporary basis without recourse to the procedures of this Section. Such transfers shall not exceed a period of six (6) weeks. It may also be necessary for other valid reasons to transfer employees on a temporary basis without recourse to the procedures of this Section. Such transfers shall not exceed a period of four (4) weeks. If the estimate of the length of temporary vacancy is incorrect, the promotional procedure outlined in this Section shall be followed. This requirement, however, may be waived by mutual agreement of the parties. Employees temporarily transferred at the Company's request shall retain their regular rate of pay or receive the rate of the temporary job if higher.
>
> 16.16. The following procedure will be followed when employees are temporarily transferred:
>
> A. The Supervisor will inform the Steward prior to the temporary transfer; those that are an upgrade will be in writing. In those cases where the Steward is not available to notify prior to the transfer, notice will be given the Union as soon as practical.
>
> B. In the event the Steward has objections, the Company will offer the temporary transfer to the more senior qualified employee from within the department who is then available before assigning the least senior qualified available employee to the job.
>
> C. In the event the Steward objects to the assignment made, the Union may, of course, utilize the grievance procedure.

The grievant has continued to perform the work of the Tube Bender A and of the Header Tube Fabricator since August 31,

2009, except when he has been absent for vacation, illness or similar temporary cause.

On September 29, 2009, the Union initiated the present grievance, relevant parts of which are set out below:

> Article or Section of Contract allegedly violated: Section 3 and all others that apply.
>
> Nature of Grievance: Company requests that Tube Bender "A" job be combined with Header Fabricator job. Union wants provisions used (outlined in the contract and the Job Description and Classification Manual) to combine both of these jobs Job Nos. 208 and 221.

On October 7, 2009, the grievant's immediate supervisor, Michael Ness, issued the Employer's first step reply to the grievance, as follows:

> Company does not request that these jobs be combined. [The grievant] has the skills to perform the work and is occasionally temporarily transferred to create header tubes when he is available and headers are needed. No contract violation. Grievance denied.

On November 20, 2009, the parties held a second step meeting, and on December 21, 2009, Mary Sueker, an employee in the Human Resources Department, issued the Employer's second step response -- "No contract violation, Grievance denied."

On April 19, 2010, after a third step meeting, Joseph G. Basar, Employee Relations Manager, issued the following third step response to the grievance:

> The company agrees to settle this grievance by doing the following:
>
> 1. The company will conduct a full job evaluation of both the Tube Header Fabricator and Tube Bender A jobs.
> 2. The Company has done a preliminary review of the union's assessment of both jobs and disagrees with the preliminary scoring of both positions.

3. The company requests that the union give the company 30 days to complete the assessments in which the company will request a meeting with the union to review all assessments.

In 1983, when the Union and the Employer disagreed about the proper evaluation of a newly created job, they selected me to arbitrate a grievance concerning the proper application of the Manual. Because the present version of the Manual is the same as the version that was effective in 1983, the following description of the evaluation process created by the Manual, which is taken from my 1983 Decision, is still accurate:

> . . . The Manual was first prepared by agreement of the parties in 1963, and they have revised it several times since -- the last time, in September of 1982. The Manual establishes a system for determining the Labor Grade, and thereby the hourly wage, for new jobs or for jobs that have been changed. The system uses twelve "Factors" that are to be considered and for which a numerical rating is given. The total of the twelve numerical ratings determines the Labor Grade. If the total is not a whole number, it is rounded to the nearest whole number. The following are the twelve Factors used:
>
> 1. Pre-employment Training.
> 2. Employment Training and Experience.
> 3. Mental Skill.
> 4. Manual Skill.
> 5. Responsibility for Materials.
> 6. Responsibility for Tools and Equipment.
> 7. Responsibility for Operations.
> 8. Responsibility for Safety of Others.
> 9. Mental Effort.
> 10. Physical Effort.
> 11. Surroundings.
> 12. Hazards.
>
> The Manual provides that the Employer is to prepare a Job Description and a Job Classification, both on forms set out in the Manual. The form for a Job Description lists six standard features of the job that are to be described -- "Primary Function, Tools and Equipment, Materials, Source of Supervision, Direction Exercised and Working Procedure." The form for Job Classification is the document used to give a numerical rating to the twelve Factors. It lists the twelve Factors and provides space for insertion of the "Code" and the "Numerical Classification" for each of the Factors.

For each of the twelve Factors, the Manual lists several lettered Codes beginning with a Code of "A" -- which has a numerical value of zero and is therefore called the "base" -- through several levels of increasing value. For each Code, the Manual states a description of the "job characteristics" that entitle a job to be rated at that Code. There are also listed, when possible, "benchmark jobs" -- jobs that the parties have agreed are to be coded at a particular value. An Appendix to the Manual is entitled, "Benchmark and Specimen Example Job Descriptions and Classifications." It depicts examples of completed forms for Job Description and for Job Classification of the following twenty-nine jobs:

Job Title	Total Points	Job Class (Labor Grade)
Janitor	0.7	1
Salvage Parts Washer	3.5	4
Unit Assembler	4.1	4
Sub-Assembler (Elect.)	5.2	5
Balancer (Dynamic)	5.3	5
Punch Press Operator	5.4	5
Packer	5.8	6
Grinder (Rough)	5.9	6
Compressor Assembler	6.0	6
[Dip Tank Operator	6.1	6]
Sub-assembler	6.3	6
Machine Operator	6.7	7
Silver Solderer	6.9	7
Shipping-Receiving Clerk	6.9	7
Spray Painter	(not stated)	8
Tube Bender	7.8	8
Moveman	8.1	8
Spot Welder	8.2	8
Shear Operator	8.2	8
Compressor Tester	8.8	9
Engine Lathe Setup-Operate	9.6	10
Inspector (Receiving)	10.3	10
Auto Mechanic	11.9	12
Refrigeration Mechanic	12.7	13
Setup-Operate Bullard Multi-Matic	13.2	13
Millwright	13.6	14
Welder "A"	13.8	14
Machinist "A"	16.0	16
Tool Maker	17.5	18

In addition to these "benchmark" jobs listed in the Manual, the labor agreement itself lists the title and Labor Grade of many other jobs, thereby establishing the parties' agreement as to the proper Labor Grade of each.

According to the procedure specified by the Manual, when the Employer has prepared a Job Description and Job

Classification for a new or changed job, the two forms are to be submitted to the Union's Job Evaluation Committee. If the Committee does not agree that a job has been correctly described and classified by the Employer, it may challenge the Employer's action by grievance.

DECISION

During the hearing in the present case, one of the arguments made by the Union was that the Employer, by assigning the grievant to do the work of the Tube Bender A and that of the Header Tube Fabricator for an extended period, had failed to comply with the requirements of Subsections 16.15 and 16.16 of the labor agreement, which relate to temporary transfers. The Employer's response to this argument was that it was outside the scope of the written grievance, which makes no allegation that a temporary transfer was made in violation of the labor agreement and raises no issue concerning temporary transfers.

It appears that the evidence about the length of the grievant's assignment to do the work of both jobs was presented primarily as background information to explain what occurred during the time between August 31, 2009, and the time of the third step meeting on April 19, 2010. During that time, the Employer's first step response of October 7, 2009, referred to the grievant's work in both jobs as a kind of temporary transfer (apparently, because Grapper was seeking other tube bending work for the Bloomington Plant), and it denied that the Employer sought to combine the two jobs, as the grievance alleges.

I make the following ruling. The evidence shows that the grievant's original assignment to do the work of both jobs, which became effective on August 31, 2009, and still continues,

exceeded the time limit established by the labor agreement for such an assignment to qualify as a temporary transfer. Nevertheless, as the Employer points out, the written grievance does not allege a violation of the agreement's temporary transfer provisions. Rather, it alleges that the Employer has, by its actions, combined the two jobs, and it seeks to have relevant "provisions used" from the labor agreement and the Manual "to combine both of these jobs." Though perhaps not artfully written, I interpret the grievance as seeking a job evaluation of the job created by combination of the two jobs as a new or changed job (hereafter, the "combined job"), to be done using the process established by the Manual. Accordingly, I rule that issues concerning violation of the temporary transfer provisions of the labor agreement are not before me.

By the time of the third step meeting on April 19, 2010, the Employer conceded that the two jobs should be evaluated as a combined job, as indicated in Basar's third step response, which I repeat below:

> The company agrees to settle this grievance by doing the following:
>
> 1. The company will conduct a full job evaluation of both the Tube Header Fabricator and Tube Bender A jobs.
> 2. The Company has done a preliminary review of the union's assessment of both jobs and disagrees with the preliminary scoring of both positions.
> 3. The company requests that the union give the company 30 days to complete the assessments in which the company will request a meeting with the union to review all assessments.

As I describe below, when each of the parties prepared an evaluation of the combined job, they found that their evaluations

were substantially different. The parties now use arbitration, the final step in the grievance procedure, to resolve their disagreement about the proper evaluation of the combined job.

The present case differs from the 1983 grievance between the parties -- from the Decision of which I have taken the text set out above that describes the Manual. In the 1983 case, the parties' disagreement related to the proper evaluation of an entirely new job -- operating a machine not previously used at the Bloomington Plant. In the present case, the parties disagree about the proper evaluation of a job created by combining two jobs for which Job Descriptions and Job Classifications have long existed. The Employer has not prepared a new Job Description form for the combined job. Grapper testified that the Employer intends to await the outcome in the present case before preparing such a Job Description.

I set out below relevant parts of the Job Description for the Tube Bender A classification, which was prepared by the Employer on November 17, 1989, and has not been amended since:

> Primary Function: Set up and operate CNC tube bending machines to bend tubing of various sizes and lengths to specifications. Give technical direction and guidance to tube benders.
> Tools and Equipment: CNC bending machine, mechanical benders, hand bender, tube straightener, swedging machine . . .
> Material: Copper, aluminum tubing, . . .
> Source of Supervision: Department supervisor.
> Direction Exercised: Give technical direction to lower grade benders.
> Working Procedures: Receive instructions from shop order, print and from supervisor.
> Set up CNC bending machine, install pressure die, clamping die, and bending form (shoe). Adjust tension clamp. Set stop or may set several stops according to

specifications. Install and adjust mandrel. Review first piece and check according to print. Make necessary adjustments.
Set up and operate mechanical benders.
Occasionally cut, flare and swedge tubing.
May bend tubing on hand bending machine.
Check work periodically.
Check grease on bending machine weekly. Clean off excess grease and dirt.
Fill in required job tickets.
Clean up immediate work area.

The Job Classification form is used to give numerical values or "points" to the twelve job evaluation factors, ending in a total number of points, which, when rounded to the nearest whole number, states the Labor Grade for the job. I set out below relevant parts of the Job Classification form for the Tube Bender A classification, which was prepared by the Employer on December 13, 1989, and approved by the Union on February 1, 1990:

FACTOR	REASON FOR CLASSIFICATION	CODE	POINTS
1. Pre-employment Training	This job requires the mentality to learn to read drawings and sketches showing layout of bends in tubing. Dimensions in inches and degrees. Make a variety of adjustments.	B	0.3
2. Employment Training and Experience	This job requires experience on this and related work of 13 to 18 months.	D	1.2
3. Mental Skill	Perform semi-routine job involving some variety of detail and requiring judgment.	D	2.2
4. Manual Skill	Perform manual tasks such as assembly, etc. at a steady pace where accuracy and dexterity are required.	C	1.0
5. Responsibility For Materials	Cost up to and incl.: $50. Close attention required for part of shift when making adjustments and checking dimensions to assure quality product.	C/50	0.5

FACTOR	REASON FOR CLASSIFICATION	CODE	POINTS
6. Responsibility For Tools and Equipment	Some attention and care required.	B/Med	0.3
7. Responsibility For Operations	Perform auxiliary operations when closely associated with production process. Lend technical assistance to lower benders.	E	3.0
8. Responsibility For Safety of Others	Ordinary care in handling lengths of tubing into and out of machine can prevent injury to others.	B	0.4
9. Mental Effort	Moderate mental application required due to the number of bends and dimensions required on a given piece.	C	1.0
10. Physical Effort	Considerable arm movement required to position and bend tubing. Material is light weight.	B	0.3
11. Surroundings	Usual machine shop surroundings -- some noise, oil and dirt.	A	Base
12. Hazards	Accident hazard low. Probable injuries would consist of minor cuts and bruises.	A	Base
	Total Points		10.2
	Job Class [Labor Grade]		10

I set out below relevant parts of the Job Description for the Header Tube Fabricator classification, which was prepared by the Employer on July 15, 1996, and has not been amended since:

> Primary Function: Set up and operate the machines listed in tools and equipment to fabricate header tubes.
> TOOLS AND EQUIPMENT: T-Drill, X-tru punch, stub tube machine, end-closer machine, drill press, Bliss punch press, small mechanical punch press, micrometer, cross cut saw, hand tools and simple measuring instruments.
> Material: Copper, brackets, prints, hardware, lubricants, etc.
> Source of Supervision: Department supervisor.

Direction Exercised: None.
Working Procedure: Receive instructions from shop orders, prints. engineering standards or verbally from supervisor.
Set up and operate Bliss punch press, small mechanical punch press or X-tru punch to punch holes in header tube per specifications.
Set up end closer machine by using micrometer to set proper depth, installing appropriate collar, and setting speed depending on tube size. Operate machine to close end of header tube.
Set up and operate T-drill to drill extrusion hole in header tube per specifications. Adjust T-drill opener as required.
Set up and operate stub tube machine by installing proper fixtures for length and angle, adjusting stroke for tube pusher, and installing correct end former to bead tubes, bend tubes, etc.
Place header tubes on cart and move to degreaser.
Fill in required job tickets.
Set up and operate cross cut saw to cut tubes to length for stub tube machine. Change mandrels and blocks, set micro switches for angle of bend, position saw for length of cutoff and sharpen saw blades on saw sharpener as needed.
Use shaker to wash and debur tubes.
Lubricate machines.
Clean up immediate work area.

I set out below relevant parts of the Job Classification form for the Header Tube Fabricator classification -- the copy of which that was presented in evidence is undated, but which, as the parties agree, was prepared by the Employer and approved by the Union approximately coincident with the date of the Job Description, July 15, 1996:

FACTOR	REASON FOR CLASSIFICATION	CODE	POINTS
1. Pre-employment Training	Plan complex work details and procedures to obtain desired results.	C	1.0
2. Employment Training and Experience	13-18 months experience inclusive.	D	1.2
3. Mental Skill	Reason through problems involving set-up and operation of moderately complex equipment.	D	2.2

FACTOR	REASON FOR CLASSIFICATION	CODE	POINTS
4. Manual Skill	Set up machines where close tolerances are required.	C	1.0
5. Responsibility For Materials	Perform semi-repetitive work close attention is required for part of shift when making adjustments and checking dimensions to ensure a quality product.	C/50	0.5
6. Responsibility For Tools and Equipment	Moderate attention and care required to prevent damage to individual machines.	C/Med	0.7
7. Responsibility For Operations	Responsible for operating a small processing unit where continuity of production is required.	C	1.0
8. Responsibility For Safety of Others	Ordinary care and attention required to prevent injury to others.	B	0.4
9. Mental Effort	Close mental and visual application required for performing work involving close tolerances.	C	1.0
10. Physical Effort	Light physical exertion.	B	0.3
11. Surroundings	Usual machine shop surroundings -- some noise, oil and dirt.	A	Base
12. Hazards	Accident hazards moderate. Probable injuries consist of severe cuts, bruises or fractures.	B	0.4
	Total Points		9.7
	Job Class [Labor Grade]		10

The Employer has not prepared a new Job Description of the combined job -- Header Tube Fabricator and Tube Bender A -- but both parties have prepared evaluations that score and code the twelve factors for the combined job. The Union's evaluation was done by Running, and the Employer's was done by Grapper.

When they prepared their evaluations, they had no formal Job Description of the combined job -- the pre-existence of which (as a changed or new job) is assumed under the process established by the Manual. In the absence of a new Job Description of the combined job, the job evaluations of the combined job that were done by Running and Grapper were done by each of them using 1) his interpretation of the existing Job Descriptions and Job Classifications for the Tube Bender A and the Header Tube Fabricator jobs, 2) his estimate of the kind of work that would be done by the incumbent in the combined job, and 3) his resulting determination of the proper point score and coding for each of the twelve factors.

Running prepared his evaluation of the combined job in July of 2009, but did not give his scoring to the Employer until about the time of the third step meeting, April 19, 2010. Grapper prepared his evaluation about the time of that meeting.

Below is a table that shows 1) in the first column, each factor's point score and code for the job of Tube Bender A as established by the Job Classification form of 1989-90, 2) in the second column, each factor's point score and code for the job of Header Tube Fabricator, as established by the Job Classification form of July 15, 1996, 3) in the third column, each factor's point score and code for the combined job, as proposed by Grapper's evaluation done for the Employer, and 4) in the fourth column, each factor's point score and code for the combined job, as proposed by Running's evaluation done for the Union:

	CURRENT POINTS AND CODES SEPARATE JOBS		PROPOSED POINTS AND CODES JOBS COMBINED	
FACTORS	TUBE BENDER A	HEADER TUBE FABRICATOR	BY EMPLOYER	BY UNION
1	0.3 (B)	1.0 (C)	0.3 (B)	1.0 (C)
2	1.2 (D)	1.2 (D)	1.2 (D)	1.2 (D)
3	2.2 (D)	2.2 (D)	2.2 (D)	2.2 (D)
4	1.0 (C)	1.0 (C)	1.0 (C)	1.0 (C)
5	0.5 (C50)	0.5 (C50)	0.5 (C50)	0.5 (C50)
6	0.3 (Bmed)	0.7 (Cmed)	0.7 (Cmed)	0.7 (Cmed)
7	3.0 (E)	1.0 (C)	1.0 (C)	3.0 (E)
8	0.4 (B)	0.4 (B)	Base (A)	0.4 (B)
9	1.0 (C)	1.0 (C)	1.0 (C)	1.0 (C)
10	0.3 (B)	0.3 (B)	0.3 (B)	0.3 (B)
11	Base (A)	Base (A)	Base (A)	Base (A)
12	Base (A)	0.4 (B)	0.4 (B)	0.4 (B)
TOTAL POINTS	10.2	9.7	8.6	11.7
LABOR GRADE	10	10	9	12

Thus, the process described as a settlement in the third step response -- an evaluation ("assessment") of the combined job by each party, followed by a meeting of the parties to review "all assessments" -- resulted in their disagreement, and the parties proceeded to arbitration. In making the evaluations set out above, neither the Employer nor the Union did so using a formal Job Description that incorporated the features of the combined job, notwithstanding that, under the job evaluation process established by the Manual, a Job Description is to be the basis for the job evaluation that occurs in the Job Classification part of the Manual's process. Instead, in the absence of a new Job Description for the combined job, both Running and Grapper based their evaluations on 1) the existing Job Descriptions and Job Classifications for the Tube Bender A and the Header Tube Fabricator jobs and 2) evidence about the conditions under which the combined job is now performed.

When the parties could not agree about evaluation of the combined job, they proceeded to the present arbitration. This history of grievance processing defines the primary issue before me -- what is the proper evaluation of the combined job under the process established by the Manual? In the absence of a Job Description of the combined job, the existence of which is a predicate to an evaluation made under that process, I must determine a description of the combined job from the evidence provided at the hearing, including the same kind of evidence that was used by Running and Grapper in their evaluations -- 1) the existing Job Descriptions and Job Classifications for the Header Tube Fabricator and the Tube Bender A jobs and 2) evidence about the conditions under which the combined job is now performed.

For nine of the twelve factors, as shown below, the parties' evaluations of the combined job are in agreement as to the point value that should be attributed to those factors, and I take their agreement about the point value for those factors as conclusive:

	CURRENT POINTS AND CODES SEPARATE JOBS		PROPOSED POINTS AND CODES JOBS COMBINED	
FACTORS	TUBE BENDER A	HEADER TUBE FABRICATOR	BY EMPLOYER	BY UNION
2	1.2 (D)	1.2 (D)	1.2 (D)	1.2 (D)
3	2.2 (D)	2.2 (D)	2.2 (D)	2.2 (D)
4	1.0 (C)	1.0 (C)	1.0 (C)	1.0 (C)
5	0.5 (C50)	0.5 (C50)	0.5 (C50)	0.5 (C50)
6	0.3 (Bmed)	0.7 (Cmed)	0.7 (Cmed)	0.7 (Cmed)
9	1.0 (C)	1.0 (C)	1.0 (C)	1.0 (C)
10	0.3 (B)	0.3 (B)	0.3 (B)	0.3 (B)
11	Base (A)	Base (A)	Base (A)	Base (A)
12	Base (A)	0.4 (B)	0.4 (B)	0.4 (B)

For the other three factors, the parties' evaluations are in disagreement about the point value that should be attributed to those factors, thus:

	CURRENT POINTS AND CODES SEPARATE JOBS		PROPOSED POINTS AND CODES JOBS COMBINED	
FACTORS	TUBE BENDER A	HEADER TUBE FABRICATOR	BY EMPLOYER	BY UNION
1	0.3 (B)	1.0 (C)	0.3 (B)	1.0 (C)
7	3.0 (E)	1.0 (C)	1.0 (C)	3.0 (E)
8	0.4 (B)	0.4 (B)	Base (A)	0.4 (B)

Factor 1. Pre-employment Training. The Manual lists three codes for this factor. Below, I set out relevant excerpts from the Manual showing all three codes for scoring Factor 1:

> Pre-Employment Training: Consider the mentality required to absorb training and exercise judgment for the satisfactory performance of the job. This mentality may be the result of native intelligence, and schooling or self-study.
>
> | CODE [POINTS] | JOB REQUIRES THE MENTALITY TO LEARN TO: |
> |---|---|
> | A. 0.0 | Carry out simple verbal or simple written instructions necessary to the performance of a repetitive manual task, or a closely supervised nonrepetitive task. Make out simple reports such as crane reports and production cards. Operate simple machines and make simple adjustments where adjustments are limited. Use measuring devices such as scales, rules, gauges, and charts in the performance of work where action to be taken is obvious. Operate powered mobile equipment performing simple tasks where little judgment is required. |
> | B. 0.3 | Perform work of a nonrepetitive or semi-repetitive nature where judgment is required to obtain results. Lead or direct three or more helpers in a variety of simple tasks. Exercise judgment in the operation of powered mobile equipment servicing a number of units or performing a variety of tasks. Set up and |

CODE [POINTS]	JOB REQUIRES THE MENTALITY TO LEARN TO:
	operate machines or processes requiring a variety of adjustments. Post detailed data to standard forms or write reports based on observation and judgment.
C. 1.0	Make general repairs to equipment involving the knowledge of mechanical and electrical principles. Interpret detailed assembly and complex part drawings such as involved in performing tradesman's duties. Direct the operation of a complex unit which determines size, shape analysis, or physical property of the product. Plan complex work details and procedures to obtain desired results.

The existing Job Classification for Tube Bender A scores Factor 1 at Code B or 0.3 point. The existing Job Classification for Header Tube Fabricator scores Factor 1 at Code C or 1.0 point. Grapper's evaluation of the combined job scores Factor 1 at Code B or 0.3 point. Running's evaluation of the combined job scores Factor 1 at Code C or 1.0 points.

The grievant testified that header tubes are made by forming materials into a multiple-headed tube that connects to other tubes in the cooling apparatus. He also testified that in the combined job he has had to learn to operate more machines than he did when he worked only as a Tube Bender A. For four weeks in October and November of 2010 -- twenty days of eight-hour shifts -- the grievant kept a record of the number of hours he spent doing the tasks of a Tube Bender A and those of a Header Tube Fabricator. He testified that he did tasks of the Tube Bender A for 110 of those 160 hours (68.75%) and tasks of the Header Tube Fabricator for fifty of those hours (31.25%).

The Employer argues 1) that, because the operations of the Tube Department are much diminished in recent years, the

grievant has little responsibility for directing the work of others, and 2) that, even if the grievant's sample over a four-week period is accepted as an accurate estimate of the work he does in the tasks of each job, he still works only about 31% of his time doing tasks he did not do previously, those of a Header Tube Fabricator.

Running testified that, as a general principle, the total score for the combined job should be greater than the total score for each of the previous jobs done separately, and the Union adopts that view as one of its primary arguments. The Employer responds that evaluation is to be done according to the Manual and that the Manual has no such general standard, but directs that evaluations be based on conditions existing at the time of the current evaluation rather than those that existed in the past when a previous evaluation was done.

I reach the following conclusions. I agree with the Employer that the job evaluation process established by the Manual requires the evaluation to be based on conditions that exist at the time of the present evaluation. Factor scores from the old evaluations of the Tube Bender A job and the Header Tube Fabricator job are still relevant in the new evaluation of the combined job, insofar as those scores show the parties' former agreement about unchanged conditions, but the old factor scores are subject to upward or downward revision in evaluating the combined job, insofar as changed conditions may justify revision.

With respect to Factor 1, I conclude that it should be scored at Code C, with a value of 1.0.point. Factor 1 seeks to evaluate "pre-employment training." The Header Tube Fabricator

job was previously scored at this level for Factor 1. Though the grievant may do the tasks of a Header Tube Fabricator during only 31% of his work hours, he still must have "the mentality required to absorb training and exercise judgment for satisfactory performance" of those tasks. For a substantial part of the time he works in the combined job, the tasks he must perform fit the description at Code level C in the Factor 1 column entitled "Job Requires the Mentality to Learn to . . ."

I note that this conclusion is not based on the general premise urged by the Union -- that, in evaluating the combined job, the rating for each factor should always be the higher of the two ratings from the old evaluations for the separate jobs. Rather, it is based on my analysis of the training needed to perform often the tasks of the Header Tube Fabricator under current conditions, applying the parties' previous agreement that the training needed to perform those substantially unchanged tasks should be rated at Code C.

Factor 7. Responsibility For Operations. The Manual lists eight codes for this factor. Below, I set out relevant excerpts from the Manual showing the three most relevant codes for scoring Factor 7:

> Responsibility For Operations. Consider the obligation imposed on the workman for utilizing capacity of equipment or process by maintenance of pace and machine speeds. This includes planning, instructing and directing the work of others. Consider the size of crew and teamwork required, the importance and size of equipment and the degree of control exercised by the workman on the job. Excess capacity and storage facilities between process operations are definite indicators for the lowering of the classification in this factor.

CODE [POINTS]	JOB REQUIREMENTS:
C. 1.0	Responsible for operating a small or individual processing unit where continuity of production is required. Perform tradesman's or shop maintenance work such as operation of complex machine tools. Handle material to and from processing units using mobile-powered equipment such as cranes and tractors. Perform auxiliary or service operations when closely associated with production units or processes.
D. 2.0	Operate a medium-sized producing unit not closely tied in with other operations; has several helpers. Responsible for performing assigned maintenance work on large producing units. Responsible for continuity of operations on a number of small producing units.
E. 3.0	Operate an important part of a major producing unit. Operate a medium-sized producing unit when closely associated with other operations. Responsible for continuity of operation for a number of medium-sized units.

The existing Job Classification for Tube Bender A scores Factor 7 at Code E, or 3.0 points. The existing Job Classification for Header Tube Fabricator scores Factor 7 at Code C or 1.0 point. Grapper's evaluation of the combined job scores Factor 7 at Code C or 1.0 point. Running's evaluation of the combined job scores Factor 7 at Code E or 3.0 points.

Grapper gave the following primary reason for scoring Factor 7 for the combined job at Code C rather than at Code E, which had been the scoring for the Tube Bender A job under its original Job Classification. When the original Job Classification for Tube Bender A was scored, the grievant, as the only Tube Bender A, had responsibility for directing the work of three or four employees in the lower classification, Tube Bender. At that time, the Bloomington Plant did tube bending for several of the Employer's other plants, and it was necessary,

because of high demand, to keep the tube bending machines running. Since 2001, the tube bending work at the Bloomington Plant has been dimin- ishing until, at present, the grievant is the only employee doing tube bending. Grapper testified that, because the grievant no longer is "Responsible for continuity of operation for a number of medium-sized units," the appropriate scoring for the combined job is Code C, or 1.0 point.

Running testified that he scored Factor 7 for the combined job at Code E or 3.0 points because the grievant must conduct operations on multiple machines -- those used in tube bending and those used in fabricating header tubes -- and coordinate his work among operations on these different machines.

As I have ruled above, the job evaluation process established by the Manual requires that the present evaluation be based on current conditions. Accordingly, factor scores from the old evaluations of the Tube Bender A job and the Header Tube Fabricator job, though still relevant, are subject to upward or downward revision in evaluating the combined job to reflect current conditions.

I agree with the Employer that the reduction in the grievant's responsibility for operations, i.e., the de facto elimination of his previous responsibility over substantially more tube bending and over other employees who did that work, has eliminated, at least for now, the need to "[give] technical direction and guidance to tube benders," a "primary function" listed in the old Job Description for the Tube Bender A classification. Though, as Running testified, the combined

job still requires that the grievant conduct operations on multiple machines, such a responsibility is not a feature of the standard given in Code E for Factor 7 and is not inconsistent with the standard given in Code C. With respect to Factor 7, I conclude that it should be scored at Code C, with a value of 1.0.point.

Factor 8. Responsibility For Safety of Others. The Manual lists five codes for this factor. Below, I set out relevant excerpts from the Manual showing the three most relevant codes for scoring Factor 8:

> Responsibility For Safety of Others. Consider the degree of care required by the nature of the job and the surroundings in which it is performed to avoid or prevent injuries to other persons. Only the direct acts or negligence of the person performing the job should be considered. It is assumed that other workers are observing the safety rules, and that all safety devices for which the job is not directly responsible are in order.
>
> | CODE [POINTS] | CHARACTERISTICS OF JOB: |
> |---|---|
> | A. 0.0 | Little care required to prevent injury to others. Works in area or on machine where others are seldom exposed to hazards of the job. Performs work exposing one other person, such as helper where likelihood and probable seriousness of accident is small. |
> | B. 0.4 | Ordinary care and attention required to prevent injury to others. Occasional crane hooking. Coordinated gang or crew work where individual acts may injure others. Operate equipment where others are occasionally exposed. |
> | C. 0.8 | Considerable care and attention required to prevent injury to others. Ordinary crane hooking. Operate power-driven mobile equipment where others are exposed but probability of accident is low. Handle inflammable liquids or gases where safeguards minimize the probability of fire or explosion. |

The existing Job Classification for Tube Bender A scores Factor 8 at Code B, or 0.4 point. The existing Job Classification for Header Tube Fabricator also scores Factor 8 at Code B or 0.4 point. Grapper's evaluation of the combined job scores Factor 8 at Code A or 0.0 point. Running's evaluation of the combined job scores Factor 8 at Code B or 0.4 point.

Grapper testified as follows. There has been a substantial reduction in the number of personnel who work in the of Tube Department since the existing Job Classifications scored Factor 8 at 0.4 point for both the Tube Bender A job and the Header Tube Fabricator job. With the retirement of Dwinell, only the grievant and one other employee, who solders tubes, work there. For that reason, Grapper scored Factor 8 for the combined job at Code A, attributing to it the need for "little care" rather than the need for "ordinary care" to prevent injury to others.

Running testified that, notwithstanding the reduction of personnel in the Tube Department, other employees often pass through, thus creating circumstances in which injury to others can occur. In addition, Running testified that the grievant sometimes trains other employees to do tube bending -- so that there will be others who can do that work when he is absent. Running, therefore, scored Factor 8 for the combined job at Code B, or 0.4 point, requiring "ordinary care," to prevent injury to others. The grievant testified that, in addition, "X-90" employees, from the department that develops prototypes, sometimes work in the Tube Department.

I agree with the Union that Factor 8 for the combined job should be scored at Code B. Though the possibility of injury to others has been diminished by the reduction in the number of personnel working in the Tube Department, the evidence shows that the presence of others is still sufficient to require the exercise of "ordinary care and attention" to prevent injury to others who are "occasionally" exposed to risk of injury.

Thus, for the combined job, the total scoring for the twelve job evaluation factors -- the scores for the nine factors about which the parties agree added to the scores determined above for the three factors about which they disagree -- is the following:

FACTOR	POINTS AND CODES FOR JOBS COMBINED
1	1.0 (C)
2	1.2 (D)
3	2.2 (D)
4	1.0 (C)
5	0.5 (C50)
6	0.7 (Cmed)
7	1.0 (C)
8	0.4 (B)
9	1.0 (C)
10	0.3 (B)
11	Base (A)
12	0.4 (B)
TOTAL POINTS	9.7
LABOR GRADE	10

I conclude that the combined job under the conditions described at the hearing of this matter should be evaluated as above, with a Labor Grade of 10. Because the Employer has continued to pay the grievant at that Labor Grade since he was

assigned to do the tasks of a Tube Bender A and those of a Header Tube Fabricator, issues concerning back pay are moot.

AWARD

The grievance is resolved as described above. The Employer shall continue to pay the grievant for hours he works in the combined job at the hourly rate for Labor Grade 10, as specified in the labor agreement.

July 5, 2011

Thomas P. Gallagher, Arbitrator