sue. If he does not elect treatment, disciplinary action follows.

Contrary to attitudes which hold that rigid rules of discharge are necessary to maintain discipline and to prevent other employees from similar violations on duty, the program that treats drug and alcohol abuse and behavior abnormalities as recoverable conditions that should receive professional handling will, in the long run, enhance employee-management relations and encourage employees to help their troubled fellow workers get help. There is no gain in enforcement attitudes that punish or discharge when these programs ignore the very essence of the illness—that afflicted persons are unable to regulate their consumption by mere dint of self-control. Telling a drug addict or alcoholic to stop using or drinking is akin to telling a hemophiliac to stop bleeding.

III. AN INDUSTRIAL RELATIONS PERSPECTIVE

JOHN D. WILLIAMSON*

Tia Denenberg, in her presentation here today, has raised a number of questions on the issue of arbitration of drug cases which are challenging your profession. I'd like to comment on them from my perspective in industrial relations, and I'll offer some observations on why my perspective is what it is.

First of all, where am I coming from? I am Manager of Industrial Relations for Carpenter Technology Corporation's Bridgeport, Connecticut, plant. This is a fully integrated steel mill. We make specialty steel bar and billet products. Specialty steel is steel which is used in critical applications—stainless steel, tool steel, and high temperature alloys. Our steel is used in such things as jet engine parts, nuclear components for the U.S. Navy that have to go many feet under the surface of the sea, human implants such as the metal piece that goes into a hip joint replacement, and high strength fasteners. I'll relate a story that might put some of our responsibilities in perspective. You remember several years ago out in Chicago there was a tragic crash of a DC-10 when it lost an engine. After the crash, everybody was asking why. The first thing that came over the news was that a bolt, broken into pieces, was found on the runway

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where the plane was trying to take off. The big question was, "Did that bolt fail and cause the engine to come off and cause the plane to crash?"

Well, I'll tell you that in our plant the big question was, "Was that bolt made of Carpenter steel—as many of them are—and, if so, was the failure due to our not doing our job properly?" That's the kind of stakes we're playing with. Fortunately, from our perspective, it turned out that the bolt wasn't related to the crash and wasn't our steel, but there were some mighty soul-searching moments until that was determined.

Our plant has 900 employees, about 650 of them organized by the United Steelworkers of America. As for myself, I have had prior experience as a first-line supervisor and also as a middle manager in production.

The first question Mrs. Denenberg raised was, "Should drug abuse be treated differently than alcohol abuse?" I respond that alcohol is a drug. It is a central nervous system depressant. It can be highly addictive. How do you separate the two—alcohol and drugs? A comment was made about the use of marijuana being associated with youth, but do you realize they use it with booze? You get high quicker and you've got a longer buzz if you mix the two of them together rather than just smoking pot. The combination of drugs and alcohol is becoming increasingly prevalent, and it is showing up earlier and in a more severe fashion than was the case several years ago. How do you sort out cross-addictions? Which is the primary and which is the secondary addiction? Which is it today compared with what it was yesterday or will be tomorrow? Which comes first, the chicken or the egg?

Mrs. Denenberg raised a second question: "To what extent should the legal status of the drug affect the outcome of an arbitration?" In response, I ask: What is the nature of the case before you? Is it a criminal law case? If it is, then there's the police and the criminal justice system to handle the matter. If it's a civil law matter, there are any number of counselors waiting out there in the community ready to pursue the matter on your behalf in a civil court. If it's an industrial dispute, and in most cases it should be if it's before you as an arbitrator, then the criminal or civil law should not apply and the case should be decided according to the contractual agreement, the rules of the workplace, practice and precedent, and equity within the basic employer-employee contract.

Mrs. Denenberg also touched upon the problem of drug identification. My thought here is that if you start playing that game, you get in over your head very quickly. How many drugs can you identify? How many can I identify? Very few. What do you do about the person who's zonked out and you don't know on what or from what? And what about polyabuse? Do you have to identify all the drugs that are involved in a situation, or just one? Which one is primary, which is secondary, which is tertiary? How do you sort all that out? Which symptoms belong to which if the employee has to know which drug he's being accused of using to see if his behavior matches the symptoms of that drug? What about the synergism that can occur when several drugs are mixed? The combination can produce characteristics which aren't similar to those of any one of the individual drugs. How do you deal with that, if you're getting all wrapped up in identifying the drugs in your efforts to make the case? To my mind, all these questions lead you into a bottomless pit and one that I personally would prefer to avoid.

How do you go about combatting drugs by creating a high-security workplace? What parameters are you going to set? Are you going to tighten the screws to where nothing is going to get in the door, nor anyone who is using anything? Again, I think this is a no-win situation. If you're going to check lunchboxes, what about checking employees' shoes? If you're going to check their shoes, what about checking anything taped to the small of their backs? Where is it going to stop? How are you going to beat them? What do you do when you open a lunchbox looking for drugs, and in the lunchbox of an electrician with an unblemished 35-year record you find a roll of electrician's tape? Is that what you were after? Is that the kind of situation you want to create? It's a situation you're going to have to deal with if you start looking for drugs in lunchboxes.

Are you going to put undercover agents in your plant? It sounds great on the surface, but do you realize the difficulty of adding an undercover agent to the work force, particularly in an organized plant? There are seniority rules out there. You can't just take a guy in off the street and put him where you want him. It might take somebody 15 or 20 years to bid his way into the slot. Then there is another reality in our plant. With the current recession, we haven't hired any new hourly employees for several years.

So here some stranger suddenly walks in and says, "Here I

am. Trust me, guys." Is he going to see what's going on? You've got to be realistic. Drug circles are closed. They are suspicious and full of street-wise people who are dealing with these situations every day.

Assume you successfully put an undercover agent in the shop and he comes forward with something on which you then base a disciplinary action. If it goes into the grievance and arbitration procedure, you're going to have to identify this agent. Do you realize what a high-risk situation that is? Man, I'll tell you—that's a situation I don't want to be in! Or what if he's discovered before you get to that point? When you're playing this game, that can be extremely dangerous. It's a risk I'd rather not have on my conscience, or on the company's conscience. And finally there is the question of obtaining corroborating evidence. If you can get such evidence to back up the undercover agent's story, why couldn't you get it in the first place without the undercover agent?

The last question Mrs. Denenberg raised concerned employers' condoning the use of cocaine. I'll just make a flat-out statement on this one. If I as an employer, or a representative of management, knowingly condoned the use of cocaine, then I have absolutely no right to present a case to arbitration that is based on somebody's using cocaine. And if I do make such a presentation, I deserve to lose the case.

In her concluding comments, Mrs. Denenberg suggested a joint approach to substance abuse. I agree that both labor and management have a stake in a successful approach to the handling of this problem, and they both have good reason to offer rehabilitative options. However, from my viewpoint, I think we must recognize that unions have a primary responsibility to their members. Unions are political organizations. Their members pay dues and vote, and they expect action for their money. In the case of our shop, those dues amount to two hours' pay a month. On average, two times $15 an hour is $30 a month the employee is paying out for protection by his union. When you're dealing with his discipline or discharge, he gets very short-sighted and self-centered as to what form that protection should take. Failure to represent a discharged brother or sister by the union leadership can open them up to charges of failure to represent that person adequately. Then the union has to launch into a defense against those charges.

Perhaps even more importantly, a discharge is an emotional

issue, it's a volatile issue, it's not amenable to broad reasoning or logic, and it can be an election issue. So the theory about cooperative programs to handle the drug-abuse cases before they get to the grievance and arbitration stage often falls by the wayside when you face the reality of a union member's discharge. He wants his grievance filed, he wants his job back, and what are you, as a union representative for that individual, going to do about it?

These facts impact on a joint approach. I'm not saying it's impossible. In fact, I think it's a very feasible approach. I just want to point out that it does have limitations.

You've heard my perspective on the issues raised, but you aren't off the hook yet! I said I'd tell you why I said what I did.

The persons who are dealing with the problems we are discussing are not you, or I, or my union counterparts. They're not dealing with them. I'm not dealing with them. What we're dealing with is the aftermath. The persons who are primarily involved with the situations we're talking about are the first-line supervisors and the employees themselves. They are the ones who have to deal with the problems. We just pick up the pieces.

Let's look at the supervisors for a moment. Who are these individuals? They are not skilled at drug identification, at knowing the legal status of a wide variety of drugs, at knowing different testing techniques and their worthiness and their admissibility, or at being aware of the impact of changing social mores on the arbitral decision-making process. No, that's not their forte.

What they are skilled at is knowing the objective of the unit that they manage and utilizing available resources to meet that objective. They know that their key resource is their people. They know what the job requires of those people, and they know their abilities. They are skilled at evaluating individual attainment of expected job performance, and they know whether that attainment is there or not. If the job performance is there, there's no problem. If it is not there, then a supervisor has the responsibility to determine and establish that fact, to do so objectively by using fair and consistent standards, and to see that those standards are uniformly applied. It's his responsibility to hold the person accountable and to take the necessary steps to bring the performance up to an acceptable level or separate the employee.

It's not his responsibility to diagnose the problem, to prescribe the course of treatment, or to administer that treatment.

These responsibilities lie with the employee. Many companies, including ours, provide an Employee Assistance Program to help the employee meet those responsibilities. I could continue at length on that, but time does not permit. If companies do this, the chances are good that the employee will continue his successful career.

What you ladies and gentlemen are dealing with is the result of a supervisor's action because the employee does not meet his responsibilities. If the supervisor builds his case on catching the employee "with the goods" or "in the act," as we often hear, or if he relies on diagnosing the reason for declining job performance, on identifying and discriminating between various illegal, controlled, or over-the-counter drugs, or on anticipating the arbitrator's philosophical mindset concerning the use of drugs vis-à-vis the workplace, then he's playing into the hands of the employee. He is trying to outsmart someone who is street-wise, who knows how to cultivate and maintain an illegal or, in the case of prescription drugs, semilegal addiction in a hostile environment.

The supervisor is playing from weakness, and the odds are that he will lose. His best opportunity for success is to play from his strength, his knowledge of how the employee meets job performance requirements. He is the expert. He controls the criteria, he makes the observations, and he has the credibility. He is able to build a strong case based not on whether the employee is drug-involved, but rather on the employee's ability to perform the job satisfactorily. This often means progressive discipline, but this works to the advantage of the employee. Is that such a bad thing? It also provides opportunity for concurrent offers of assistance through the Employee Assistance Program. If the case should ultimately reach the point of discharge and go up for arbitration, the supervisor has a sounder case to present because he went this route.

This is why I endorse and encourage the use of job performance approaches for the treatment of any employee problem—not just drugs, or alcohol, or gambling, or the kids, or money, or the wife, or whatever. In a sense, the problem is secondary to the fact that there is a problem and the fact that it affects the employee's job performance.

What I ask of you ladies and gentlemen, as arbitrators, is that you examine and weigh a case with the understanding of where and with whom it originated. It originated with a supervisor and

an employee. My union counterparts and I just arrange, massage, and embellish the facts that are determined by an employee and a supervisor at a given point in time. Keep in mind—and in balance with the employee's rights—the supervisor's responsibilities for his unit objectives and for all of his employees. And also keep in mind, and in balance, the rights of the peers of the disciplined employee. Discharge, which most of these cases usually are, has been characterized as the industrial "death sentence." However, it's an industrial death sentence, not a physical death sentence. There's a vast difference. If given a choice of which you would receive, few of you would say "whichever"! Even the onus of losing a job is not as strong as it used to be. Unlike arrest and conviction, it is not publicized in the media, so it's not made general knowledge in the community. Situations that result in discharge are more acceptable now than they were not many years ago. Other employers frequently do not check references. I had a person who was discharged for sleeping on the job, which was drug-connected. He was a skilled craftsman and he went right out and picked up another job in a matter of a few weeks. Nobody checked on his references; they saw a skill, gave him a job, and figured they'd take their chances. A short time later he was discharged again. So I feel it's not fair to the supervisor in these cases to hold him to the same standards of proof as required for the physical death sentence.

Finally, I feel that your role is that of an activist, not a reactor. And thus I might disagree with some of the opinions that were voiced this morning. In my judgment, as you weigh the facts and reach your decision, you have a specific role to play other than just reacting to the given facts. Within the framework of those facts and the principles and precedents forming the parameters of the case, there is room to shape, to mold, and to direct within your decisions. You are the teachers for my union counterparts and for me.

This morning I heard reference to an arbitrator's providing the parties with a choice of a one-line decision, two short paragraphs, or a full-blown award. The response was, "People want the full-blown award." Why? Because you are the teachers. You are the people on whom we rely. You're the authorities whom we quote when we support our people in the grievance and arbitration procedure.

One of the last things I did before I left to come up here to Quebec at the beginning of this week was to give a departmental

superintendent and a foreman a copy of the steel industry Arbitration Panel's 1969 Incentive Arbitration award.[1] I showed them how to use the award criteria to say no to a grievant requesting a change from indirect to direct incentive participation. Within the steel industry, Messrs. Simkin, Seward, and Garrett's Incentive Arbitration award provides a clear and direct set of parameters. It has been the guiding beacon through almost 14 years of incentive dispute resolution.

Unfortunately, no such beacon exists in the area of drug-abuse cases. I suggest that your clients on both sides of the table would be well served and appreciative if they could begin to catch just brief glimpses of such a beacon as the fog surrounding this issue begins to lift.

[1] 53 LA 145-154 (1969).