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In the Matter of Conciliation \*  
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Between \* SERB Case No.:  
\* 00-MED-09-0949  
International Union of \*  
Police Associations \* Before: Harry Graham  
\*  
and \*  
\*  
The City of Findlay, OH. \*  
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APPEARANCES: For IUPA Local 71:

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For The City of Findlay, OH.:

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INTRODUCTION: Pursuant to the procedures of the Ohio State Employment Relations Board a hearing was held in this matter before Harry Graham. At that hearing the parties were provided complete opportunity to present testimony and evidence. The record in this matter was closed at the conclusion of oral argument in Findlay, OH. on April 11, 2001.

As established under the Collective Bargaining law of Ohio there had occurred a Factfinding proceeding prior to

this conciliation proceeding. The Factfinder, Richard E. Gombert, issued his award on February 14, 2001. The proceeding before Factfinder Gombert involved three bargaining units in the Findlay Police Department. These were patrol officers, sergeants and dispatchers. The latter two bargaining units accepted the recommendations of the Factfinder. The patrol officers did not. Thus, there is a situation at conciliation where one bargaining unit is seeking to break the pattern established by the Factfinder and the other two bargaining units. This is not a strong position for the Union in this proceeding. Further, as emphasized by the City at the hearing, the award of the Factfinder should be given great weight. This Arbitrator subscribes to that notion. Unless it is shown that the Factfinder erred, or that the award was so unusual as to be bizarre, a Factfinding award is entitled to respect. There is a clear bias in interest arbitration proceedings to defer to the award of a Factfinder if either of the parties embraces it. In this situation the Employer, as set forth more fully below, stands on the recommendations of Factfinder Gombert. For that reason alone, it urges its position, the recommendations of the Factfinder, be awarded on all issues.

At the hearing the parties were able to agree upon the issues in dispute between them. Those issues are:

1. Health insurance
2. Wages
3. Longevity
4. Shift differential

#### ISSUE 1, HEALTH INSURANCE

**POSITION OF THE UNION:** The dispute between the parties on this issue concerns the co-payment for prescription drug coverage. The current co-pay for generic drug coverage is \$5.00. The Union proposes that remain unchanged. The City is proposing that specific co-payment be increased to \$10.00. The Union points out that the proposal of the City represents a 100% increase which it regards as excessive. Further, as the Union recounts the history of negotiations on this issue, the City has not provided information concerning the saving in premium it expects to secure should its proposal be awarded. In essence, the Union is being asked to accept the proverbial pig-in-a-poke. Such a situation is unreasonable in its opinion.

**POSITION OF THE CITY:** As noted above, the City proposes the generic drug co-payment be increased to \$10.00 from the existing \$5.00. Putting to one side the merits of the position, the City points out that at this proceeding the Union is seeking an exception in the City-wide drug insurance plan. Should this bargaining unit prevail it will be the only group in City service to retain the \$5.00 generic drug co-pay. Significantly, other police officers, Sergeants and

Dispatchers as well as non-represented employees, will have the \$10.00 co-pay. It is simply impractical for the City to carve-out this single bargaining unit for a special benefit. Whatever may have been the per-employee cost of retaining the \$5.00 co-pay on a City-wide basis, it will be greater if only this group amongst all City employees is covered. That is a ridiculous scenario in the opinion of the City. The Factfinder recommended the City's position on this issue. Other health improvements in insurance benefits were provided. No reason exists to award the proposal of the Union on this issue the City insists.

**DISCUSSION:** As noted in the introduction to this award, the Factfinder recommended the increase in the generic drug co-pay at issue here. That is a very powerful argument for its award by the Conciliator. Equally powerful is the acceptance of the increase by the Sergeants and Dispatchers. The Fire Fighters accepted the increase during negotiations in exchange for changes in other aspects of health benefits. It should not be expected that there would be a lack of uniformity in the drug coverage provided City employees. In essence, this bargaining unit is asserting that a City-wide benefit provision should not apply to it. Why this is so is mysterious. The City and the Union, as well as the other Union with which it deals, have an interest in preventing

whip-sawing in negotiations. Were there to be a departure permitted for this bargaining unit from the City-wide pattern of drug coverage a mischievous precedent for the conduct of negotiations will be set. This neutral is unwilling to sanction such a development. The position of the City must be, and is, awarded.

#### **ISSUE 2, WAGES**

**POSITION OF THE UNION:** Presently there are eight steps to the top pay step. The Union regards this as being excessive. It proposes the number of steps to top step be reduced to seven in the first year of the Agreement and six in the second year of the Agreement. In support of this proposal the Union points out that data from the State Employment Relations Board show that the average number of steps to top step in northwest Ohio communities is about four. Obviously, that there are eight steps to the top prompts the conclusion that Findlay is out of line on this item.

Further, the Union asserts that there is turnover in the Department. That officers depart for careers in other departments is indicative of the fact that the number of steps to top step is excessive in the opinion of the Union. Hence, its proposal should be awarded it contends.

**POSITION OF THE CITY:** The City proposes no change in the number of steps to top step. The Dispatchers have a step pay

plan. No change was made in it during this round of negotiations. Dispatchers reach the top step of their pay scale in eight steps. Fire Fighters do so as well. The City-wide pattern on this issue should not be disturbed in the opinion of the Employer. Further, the Factfinder examined the data submitted by the parties. He found no change was justified. No change was recommended by Factfinder Gombert. No change should be awarded under these circumstance the City insists.

**DISCUSSION:** The Factfinder concluded that "The current number of steps does not appear to be excessive...." (p.6). Data supplied by the City (Employer Exhibit 5) support that conclusion. Close attention must, however, be given to data from the State Employment Relations Board found in the Exhibits provided by the Union. More specific to Northwest Ohio than the data from the City, it shows that time to top step is longer in Findlay than in other area communities. The average in the region is 4.1 years to top step. Findlay does not compare well on this item. Were this a Factfinding proceeding the position of the Union on this issue would be stronger than it is at this stage of the State-mandated dispute resolution process. As noted above, this Arbitrator gives great weight to the recommendations of a Factfinder. Further, this Arbitrator is unwilling to disturb the step

system found City-wide. Internal comparability data support the position of the Employer and it is awarded.

### **ISSUE 3, LONGEVITY**

**POSITION OF THE UNION:** The Union is proposing very substantial changes in the existing longevity component of pay. Under its proposal the current cents-per-hour longevity pay plan would be replaced by a percentage of full base pay longevity plan. The longevity pays would increase by two percent (2.0%) every five years starting at 2.0% after ten years of service and concluding at 8.0% after twenty-five years of service. The average length of service in the Findlay Police Department is short, 5.5 years. One reason for this short average service is the longevity pay plan in the opinion of the Union: it is substandard. In fact, only about 19% of bargaining unit members receive any longevity pay. Should the proposal of the Employer be awarded, only 22% of officers will receive longevity pay at the conclusion of the Agreement.

The Union notes that the Employer has proposed increasing longevity pay by adding a new section: longevity pay after 25 years of service. This is irrelevant in the opinion of the Union as no officer will reach that plateau of service during the forthcoming Agreement. Thus, its proposal on this issue should be awarded the Union asserts.

**POSITION OF THE CITY:** The City proposes to increase the current longevity pay scale by ten cents (.10) per hour at years 10, 15, and 20. It also proposes to add a new longevity step: \$1.00 per hour after 25 years of service. The City points out that it adopted the recommendation of the Factfinder on this issue. It should not be required to do more. Additionally, the Sergeants and Dispatchers accepted the Factfinder's recommendations. Internal comparability supports its proposal on this issue in the opinion of the City. Hence, its proposal should be awarded it contends.

**DISCUSSION:** At the risk of being repetitious, the City is correct on this issue for the reasons enunciated above. It adopted the recommendation of the Factfinder. That recommendation is not bizarre. It was accepted by the colleagues of the members of this bargaining unit. Both the recommendations of the Factfinder and internal comparability support the proposal of the City on this issue. Once again, were I writing on a blank slate the outcome on this particular issue might have been different from that recommended by the Factfinder. That does not alter the fact that absent a showing of error by the Factfinder who precedes the Conciliator the Factfinder's award is due deference. I also give great weight to the fact that the Sergeants and Dispatchers accepted the Factfinder's award. Should this



bargaining unit prevail on this issue it would be destructive of the collective bargaining process and hinder negotiations for successor agreements covering the Sergeants and Dispatchers. They will feel, with good reason, that they were duped. That is not conducive to voluntary resolution of disputes. For these reasons, the position of the City is awarded.

#### **ISSUE 4, SHIFT DIFFERENTIAL**

**POSITION OF THE UNION:** The Union proposes there be a shift differential payment of .25 on the afternoon shift and .20 for the night shift. Other nearby communities provide shift differential pay. (Union Exhibit citing SERB data). In the opinion of the Union, the afternoon shift is the least desirable in terms of its impact upon the health and family life of an officer, hence it should carry with it the greatest shift differential payment.

**POSITION OF THE CITY:** When the parties arrived at Factfinding the City was opposed to the proposal of the Union on this issue. In fact, the City was opposed to instituting the concept of shift differential payment as it was not found in prior Agreements. The Factfinder recommended a .15 per hour shift differential payment for afternoon and evening shifts. (At the Conciliation hearing a great deal of discussion was had regarding what precisely constituted the afternoon and

evening shifts. The parties eventually reached an understanding on that point and that understanding is incorporated into this award by reference as my award on when shift differential pay is to commence and cease). The City accepted the award of the Factfinder. For the same reasons as set forth above, the City urges its proposal on shift differential be awarded.

**DISCUSSION:** The proposal of the Union is unusual in seeking a greater shift differential payment for officers on the afternoon shift than those on the night shift. Convention dictates the reverse. Factfinder Gombert noted "The comparables do not support the Union's theory that the afternoon shift is the most undesirable shift." (p.7). Examination of the data introduced by the Union shows his conclusion to be correct without a shred of doubt. Factfinder Gombert determined that an equal shift differential payment was appropriate. Once again while that might not be what this neutral would have recommended, Factfinder Gombert's recommendation is due deference on this point. For reasons set out earlier in this opinion, so too is his recommendation of a .15 per hour shift differential payment. It is awarded.

**SUMMARY OF AWARD**

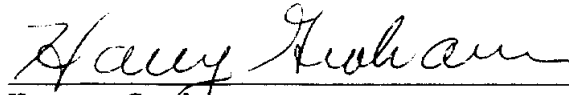
**ISSUE 1, HEALTH INSURANCE:** The proposal of the City is awarded.

**ISSUE 2 WAGES:** The proposal of the City is awarded.

ISSUE 3, LONGEVITY: The proposal of the City is awarded.

ISSUE 4, SHIFT DIFFERENTIAL: The proposal of the City is awarded.

Signed and dated this 25<sup>th</sup> day of April, 2001 at Solon, OH.

  
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Harry Graham  
Conciliator