

STATE EMPLOYMENT
RELATIONS BOARD

2008 JUN 24 A 11:40

IN THE MATTER OF IMPASSE X
X
BETWEEN X
X
PICKAWAY COUNTY SHERIFF X
X
AND X
X
FRATERNAL ORDER OF POLICE X
X
OHIO LABOR COUNCIL, INC. X

AWARD OF
THE CONCILIATOR

SERB FILE NO.: 2007-MED-11-1228

HEARING: June 6, 2007; Circleville, Ohio

CONCILIATOR: William C. Heekin

APPEARANCES

For the Sheriff

John J. Krock, Clemans, Nelson & Associates

For the FOP/OLC

Andrea H. Johan, Staff Representative

ADMINISTRATION

By way of a letter dated April 30, 2008, from the State Employment Relations Board (SERB), the undersigned was informed of his designation to serve as conciliator regarding a wage re-opener, negotiations impasse. On June 6, 2008, and following receipt of pre-hearing submissions, a conciliation hearing went forward. The record was closed at the conclusion of the hearing and the matter is now ready for the issuance of a conciliation award.

DISCUSSION AND FINDINGS

This wage re-opener dispute comes to the undersigned following the issuance of a fact finding report dated April 9, 2008, by fact-finder Margaret Nancy Johnson. The background of this dispute was summarized in the following passage contained in her report:

* * *

Pickaway County, with a population of 52,727 residents, is located south of Columbus, Ohio. As a County law enforcement agency, the Office of the Sheriff manages a jail whose inmates are serviced by approximately thirty-seven (37) full time non-sworn civilian Corrections Officers. Additionally, about ten (10) full time civilian Communications Officers answer calls and dispatch officers in response to requests for assistance from the public. Pursuant to a labor agreement between the parties, the wage rates for these classifications are now under review.

* * *

Accordingly, the fact finder made two wage re-opener recommendations. One, which pertained to the Communication Officers bargaining unit (SERB File No. 2007-MED-11-1227), was accepted. The other, involving the Corrections Officers bargaining unit, was not accepted and is the matter now before the undersigned:

* * *

In the presentation of its case, the FOP seeks substantially greater increases for employees in the classification of Corrections Officers who currently receive less in compensation than Dispatchers. The rationale for the proposal is that Corrections work is more stressful and there is no justification for paying these employees less than unit members in Communications. Additionally, the Union argues the artificial distinction in pay is not consistent with other law enforcement agencies within the state.

In response, the Sheriff contends the difference in pay arises from the work force needs of the Office, taking into account issues of retention and ability to recruit. Moreover, the Sheriff maintains that since the budget is authorized by the County Commissioners, any adjustments in pay are necessarily restricted to 3%.

In considering and analyzing the figures, the fact-finder notes that, indeed, compensation paid to Corrections Officers may warrant adjusting in the future. The difficulty of doing so in this proceeding however, is that this is a wage re-opener rather than a full contract negotiation. Typically a re-opener achieves a wage increase consistent with ability to pay and market trends – not a rectification. Rather than setting salaries, re-openers address appropriate increases for the existing wages. Issues of “catch-up” should be accomplished pursuant to collective bargaining when numerous proposals on a variety of matters are on the table.

In declining the position of the FOP at this time, the fact-finder has been persuaded by the statutory criterion of past collective bargaining. The historical difference in pay was the result of prior negotiations, the consequence of a give and take between the parties. Should the rationale for the established salary schedule no longer exist and should adjustments be justified, then the parties must address that issue in the context of full negotiations rather than at a mid-contract re-opener.

Accordingly, the fact-finder recommends a 3% increase for the Corrections Officers for contract year 2008, retroactive to January 1.

* * *

While noting that the fact finder looked to “the statutory criterion of past collective bargaining” in making her recommendations, what follows is the entirety of the ORC 4117.14 criterion:

* * *

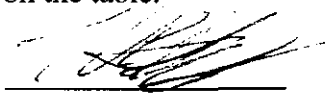
- Past collectively bargained agreements between the parties;
- Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

- The interest and welfare of the public, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service,
- The lawful authority of the public employer.
- Any stipulations of the parties.
- Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

* * *

Against this backdrop, where the position of the Sheriff is 3% and that of the FOP/OLC is 4%; it is directed that there be a 3% wage increase for 2008 as was recommended by the fact finder. In other words, and while all other contract provisions are to remain in effect, it is hereby directed that there be a 3% wage increase for 2008 as to the Corrections Officers bargaining unit, retroactive to January 1, 2008.

This follows since the conciliation hearing record provided a strong basis upon which to direct a 3% wage increase. More specifically and while emphasizing that the non-represented County employees as well as the other County bargaining units received a 3% wage increase for 2008, including those involving the Pickaway County Sheriff; the undersigned concurs with the fact finder's determination that "Issues of 'catch-up' should be accomplished pursuant to collective bargaining when numerous proposals on a variety of matters are on the table."



William C. Heekin
June 23, 2008
Cincinnati, Ohio