

STATE EMPLOYMENT RELATIONS BOARD
CONCILIATION
CASE NO. 96-MED-09-0773

CITY OF WARREN, OHIO :
 :
 The Employer :
 :
 -and- : CONCILIATION OPINION AND AWARD
 :
 FOP/OLC, INC. :
 :
 The Union :

APPEARANCES

For the City:

Gary C. Cicero, Director of Human Resources
Brian M. Massucci, Personnel Supervisor

For the Union:

Otto Holm, Representative, FOP/OLC
Captain Cliff Evans, Bargaining Committee
Sergeant John J. DelBene, III, Bargaining Committee
Lieutenant Tim Bowers, Bargaining Committee

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I. SUBMISSION

This matter came before this arbitrator pursuant to the terms of the collective bargaining agreement and the statutory law of the State of Ohio, the parties having failed resolve of their contract impasse. The hearings in this cause was scheduled and conducted for January 21, 1997, at the Community Development Center of the City of Warren, Ohio, whereat the parties presented their evidence in both witness and document form. It was upon the evidence and argument that this matter was heard and submitted and that this opinion and award was thereafter rendered.

II. STATEMENT OF FACTS

The employer in this particular matter is the City of Warren, Ohio. The union in this particular matter is the Fraternal Order of Police representing the sergeants, lieutenants and captains of the Warren, Ohio, Police Department. The parties have gone through the fact-finding process pursuant to law and an award was rendered and published by fact-finder Edward A. Pereles under date of December 18, 1996. It is clear under the fact-finding award as written that approximately eight impasse clauses were the subject of Mr. Pereles' award with the other, matters according to the fact-finder, withdrawn with prejudice. In that group of "withdrawn with prejudice" there was an issue concerning longevity.

This matter came before the undersigned, when initially presented by way of hearing material prior to hearing, stating that there were thirteen issues. Those thirteen issues are revealed to be the following:

1. Term of Agreement.

2. Management's Rights.
3. Disciplinary Procedures.
4. Termination Method.
5. Hours of Work.
6. Wages.
7. Rank Differential.
8. Shift Differential.
9. Uniform Allowance.
10. Uniform Maintenance Allowance.
11. Service Connected Disability.
12. Health Care Benefits.
13. Longevity.

By the time the fact-finder arrived at the scheduled meeting of January 21, 1997, it was determined that the issues of; term of agreement, termination method, hours of work, wages and service connected disability were settled satisfactorily. It was further noted that the issues of management's rights, disciplinary procedures, shift differential, uniform allowance, uniform maintenance allowance and health care benefits were withdrawn by mutual consent of the parties.

It is further noted that the write-up that the union presented prior to hearing revealed that longevity was an issue of impasse. It might be noted that longevity was not the subject of hearing at the fact-finding level. The union by its own admission, "withdrew with prejudice" a proposal made concerning the issue of longevity. At the conciliation hearing the union attempted to resurrect the issue of longevity and the city strenuously objected. It was the finding of the

conciliator that the issue of longevity was "withdrawn with prejudice" and that that was not a real issue therefore in the case before the conciliator.

The only issue remaining therefore from all of this group of thirteen issues was the issue of rank differential. It might be further noted that one third of that issue was settled, i.e., the sergeant's portion of that rank differential. The only thing left therefore for this conciliator to rule upon was the rank differential between sergeant and lieutenant and lieutenant and captain.

The last offer of the bargaining unit as to these two differential situations revealed the following:

	"1-1-97	1-1-98	1-1-99
Lieutenant	12.5%	13.5%	15%
Captain	12.5%	13.5%	15%"

The city on the other hand brought its own table of last offer to the hearing and the city's pay provisions with reference to the differential of sergeant to lieutenant and lieutenant to captain revealed the following:

	"1-1-97	1-1-98	1-1-99
Lieutenant	12%	12%	12.5%
Captain	12%	12%	12%"

The money differential between the two final offers approximates fifteen thousand dollars for the three year period without the various add ons. Figuring an add on of approximately 40% it could easily be

said that the total difference between the parties to the settlement of the issue of rank differential was gross, bottom line, approximately twenty-five thousand dollars.

It is indicated that the union relied upon the latest statistics of the Labor Relations Information System which revealed certain numbers as an average all of which is reflected in the union's last offer. The city on the other hand depended upon numbers taken from the State Employment Relations Board statistics which revealed their averages of differential to be those listed in the city's final offer. Thus, over a three year period the difference of a gross twenty-five thousand dollars was indicated---all because the numbers of the State Employment Relations Board differed from the numbers revealed in the Labor Relations Information System---all as to averages of differentials of sergeants to lieutenants and lieutenants to captains.

It might be further noted that the question of finances was not an issue raised as any defense by the city in this particular matter. By way of an aside, it might be noted that the City of Warren, the employer herein will eliminate one lieutenant and one captain during the term of this contract of collective bargaining, effecting a substantial savings to the employer. It might be further noted that the workload at the officer level has increased. On the other hand the city never stated that the union members had not done their share of work during the last contract period.

It was upon that evidence that this matter rose to arbitration for opinion and award.

III. OPINION AND DISCUSSION

It might be noted that at the time of the hearing there were approximately twenty-five officers in the bargaining group. Four were captains, seven were lieutenants and there were fourteen sergeants. The parties refused to compromise the gross difference of twenty-five thousand dollars leaving it to this conciliator to determine the final answer. It is apparent that the work force involved in this particular cause met its standards and workloads because the evidence did not reveal anything to the contrary.

It is further noted that there should be a sufficient amount of rank differential in order for a person to seek a higher position in the work force in which he is employed. If in fact there is a lesser percentage of rank differential then an individual might disregard seeking higher rank. So the rank differential does have some need in order to cause a member of the bargaining unit to seek a greater and higher rank. Thus, the differential must be of a meaningful amount in order to cause a member of the bargaining unit to seek higher rank. Without that, there would be no need for a sergeant to seek promotion to a lieutenant and a lieutenant to captain.

I have reviewed the numbers in both of the background information sheets that the parties provided and which they themselves used. It is apparent that the national averages appear to be higher than the State of Ohio averages. The amount is not substantial but it does add a little weight at the top that the state numbers do not. However, the national numbers are not overburdensome so as to disallow them from being paid to the bargaining unit herein. As a result, I am of the

opinion that the bargaining unit should receive the request of the union as follows:

	"1-1-97	1-1-98	1-1-99
Lieutenant	12.5%	13.5%	15%
Captain	12.5%	13.5%	15%"

The award of the indicated amount appears to be fair, reasonable and just under the circumstances and therefore the final offer of the union is accepted in this particular matter.

IV. AWARD

The indicated rank differential shall be that as requested by the union in its final offer.


MARVIN J. FELDMAN, Conciliator

Made and entered
this 28th day
of January, 1997.