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STATE EMPLOYMENT RELATIONS BOARD
CASE NO. 96-MED-10-0999

JAN 2 10 17 AM '98

STATE EMPLOYMENT
RELATIONS BOARD

CITY OF NORTH ROYALTON, OHIO :
 :
The Employer :
 :
-and- :
 :
IAFF, LOCAL 2156 :
 :
The Union :

CONCILIATOR'S
OPINION AND AWARD

APPEARANCES

For the Employer:

Joseph Lencewicz, Advocate
Chris Lencewicz, Attorney

For the Union:

Susannah Muskovitz, Attorney
Marc Buchanan, Representative
Thomas Sargent, Representative
Bob Hughes, Representative
George R. Cesar, Representative

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I. SUBMISSION

This matter came before this conciliator pursuant to the statutes and rules concerning these matters, the parties having been unable to resolve their differences prior to the conciliation process. The hearing in this matter was scheduled and conducted at the conference facility of the employer, City Hall, North Royalton, Ohio, on December 23, 1997, whereat the parties presented their evidence. The parties waived sequestration and final briefs. The parties stipulated and agreed that this matter was properly before the conciliator. It was upon the evidence and argument that this matter rose to conciliation for Opinion and Award.

II. INTRODUCTION

There was seven (or eight) issues that came before this conciliator in this matter and they included;

1. Wages
2. Duration
3. Paramedic pay
4. Longevity
5. Holidays
6. Sick Leave Bonus
7. Compensatory time (2 parts)

Each point was answered in the following pages, taking into account the mandating statutes, the rules and etc. Attention was not given to tentative agreements on the issues, but only to the final offers of each party on the issue presented. Tentative agreements are forms of

settlement and settlement discussions have no place in the hearing because that evidence is not relevant. Further there was no defense by the employer of an inability to pay. There was some heed given to the Fact-Finding Award, but that writing was not dispositive of the issues. Heed was given to comparables. Care was given so as to disallow "cherry picking".

The above list contained the only issues that came before me. No others were considered by this conciliator.

III. DURATION

The final offer of the city was that a two year agreement would be sufficient. The city indicated and stated that all the other bargaining units of the city had two year contracts; that the two year request was predicated upon other settled items in this matter and that there is no compelling reason for a three year agreement to be ordered.

The union on the other hand requested a three year agreement as part of its final offer. The union offered the reason that one year (1997) of a two year settlement has already passed and that the parties would again be negotiating in another ten months or a period too close at hand to the instant period. A written reason was not offered by the fact finder or the union for a three year agreement.

Based upon the evidence in this case, most notably the two year pattern as set by the other bargaining unit settlements of this employer, a two year contract period is ordered for the period beginning January 1, 1997 and concluding on December 31, 1998.

IV. WAGES

The employer has engaged in bargaining with other bargaining units of the city. It settled those disputes with a 4% wage increase for 1997 and an additional 4% wage increase for 1998. That was the final offer of the city in this matter. The city also increased all non-union employees of the city with the same amount. Thus, the city maintained that a pattern has been set and seeks the the instant unit to fall within that perimeter.

It is interesting to note that the fact finder did not find it necessary to consider the wage by itself but rather to place it in the mix with paramedic increments and longevity increments. Wages, being the cornerstone of any contract of employment deserves its own discussion because of its extreme importance. When reviewing the comparables, it was noted that the union created a list of twenty municipalities, some eight of which were on the other side of town and two of those in another county. Yet, even in that list of twenty, the city herein ranked 13th, just dollars under the median of the list. The total offered pay increase of 4% per year for 1997 and an additional 4% for 1998 would not be a bleak or scrooge like wage increase. Rather, it would favorably maintain the place of North Royalton on any list of comparables.

The union has requested a 4½ percent increase for the first year. That would not maintain the pattern of the other units in North Royalton. There was no compelling evidence to order any more than the final offer of the employer.

It is the order of the conciliator therefore that the union receive a 4% increase on base for 1997 and an additional 4% on base in 1998. The 1997 wage shall be retroactive to January 1, 1997 and paid to the bargaining unit forthwith.

V. LONGEVITY

The union created a request for higher payments for longevity to coincide with the following:

"All employees will be awarded longevity payments at the rate of one hundred dollars (\$100.00) for each year of full-time service commencing on the employee's fifty (5th) anniversary date of full-time service. At that time, the employee will become entitled to a sum of five hundred dollars (\$500.00), which will be paid in lump sum on the first pay period ending after his anniversary date. Employees with more than five (5) years of full-time service shall be entitled to the appropriate amount as specified in the longevity payment schedule. Longevity shall continue to be awarded on the employees successive anniversary dates according to this procedure and the below listed longevity schedule.

| | |
|------------------|-----------|
| 5th Anniversary | \$ 500.00 |
| 6th Anniversary | 600.00 |
| 7th Anniversary | 700.00 |
| 8th Anniversary | 800.00 |
| 9th Anniversary | 900.00 |
| 10th Anniversary | 1,000.00 |
| 11th Anniversary | 1,100.00 |
| 12th Anniversary | 1,200.00 |
| 13th Anniversary | 1,300.00 |
| 14th Anniversary | 1,400.00 |
| 15th Anniversary | 1,500.00 |
| 16th Anniversary | 1,600.00 |
| 17th Anniversary | 1,700.00 |
| 18th Anniversary | 1,800.00 |
| 19th Anniversary | 1,900.00 |
| 20th Anniversary | 2,000.00" |

The comparables, as presently constituted revealed that North Royalton was higher in payments under its current language than Berea,

Brookpark, Middleburg, Parma, Parma Heights and Strongsville. The current language which the city offered to continue revealed the following:

"ARTICLE XXXI LONGEVITY

31.01 All employees will be awarded longevity payments at the rate of one hundred ollars (\$100.00) for each year of full-time service commencing on the employee's fifty (5th) anniversary date entitled to a sum of five hundred dollars (\$500.00), which will be paid in lump sum on the first pay period ending after his anniversary date. Employees with more than five (5) years of full-time service shall be entitled to the appropriate amount as specified in the longevity payment schedule. Longevity shall continue to be awarded on the employees successive anniversary dates according to this procedure and the below listed longevity schedule.

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| 11th Anniversary | 1,100.00 |
| 12th Anniversary | 1,200.00 |
| 13th Anniversary | 1,300.00 |
| 14th Anniversary | 1,400.00 |
| 15th Anniversary | 1,500.00" |

The fact finder favored the current language. It is the order of this conciliator that the language of the contract ending December 31, 1996, be maintained in this regard. There is no showing of evidence which can serve as a predicate to raise the longevity payments as requested.

VI. PARAMEDIC PAY

The union sought an increase in the current paramedic pay schedule.

The just expired contract in that regard contained the following clause;

"28.05 Employees who are certified as an EMT-Basic, EMT-Intermediate or an EMT-Paramedic shall receive the following stipends payable in the last paycheck in November of each calendar year:

| <u>EMT-Basic</u> | <u>EMT-Intermediate</u> | <u>EMT-Paramedic</u> |
|------------------|-------------------------|----------------------|
| \$300.00 | \$500.00 | \$900.00" |

The increase sought by the union revealed the following;

| <u>EMT-Basic</u> | <u>EMT-Intermediate</u> | <u>EMT-Paramedic</u> |
|------------------|-------------------------|----------------------|
| \$300.00 | \$500.00 | \$1,500.00 |

Employees shall receive only the stipend for their highest certification as set forth above."

The employer has proposed the following;

"Section 1. Employees who are qualified paramedics and performing paramedic duties shall be paid an additional \$1100.00 per year, to be paid as part of the regular pay. As used in this section, 'qualified paramedic' shall mean a firefighter who has successfully completed a Paramedic course, certified by the State of Ohio, and under the standards established by the State of Ohio, that govern said certifications, including any continuing education requirements. If a regular firefighter shall be a 'qualified paramedic' for only part of the year, or remain with the Fire Department for only part of the year, the \$1100.00 shall be paid pro-rata. There shall be no lump sum payment of paramedic pay.

Section 2. Employees who are qualified Advanced EMTs and performing Advanced EMT duties shall be paid an additional \$600.00 per year, to be paid as part of the regular pay. As used in this section, 'qualified Advanced EMT' shall mean a firefighter who has successfully completed

Advanced EMT courses, certified by the State of Ohio and under the standards established by the State of Ohio, and who maintains a current Advanced EMT certification under all laws of the State of Ohio, that govern said certifications, including any continuing education requirements. If a regular firefighter shall be a 'qualified Advanced EMT' for only part of the year, or remain with the Fire Department for only part of the year, the \$600.00 shall be paid pro-rata. There shall be no lump sum payment of Advanced EMT pay."

The evidence further revealed that there is available six week employer paid program to advance from EMT to advanced EMT. Both of the final offers seem to promote the fact that the city would want only paramedics, in the final analysis. There are some senior personnel in the EMT classification. I am inclined to reject the union's final offer and accept the final offer of the city for several reasons.

The city's payment of \$1100 a year to eighteen paramedics is a clear increase in wage increment to the paramedic. It also promotes the paramedic classification and strongly urges the EMT to obtain further training for advancement to the advanced EMT classification and obtain the \$600.00 per year, yearly increment. The comparables simply do not indicate any need for a further increase.

For all of those reasons, after weighing the evidence, the employer's offer must be accepted. It appears reasonable and just under the circumstances.

VII. HOLIDAYS

Those scheduled to work on Thanksgiving and Christmas days beginning at 8:00 a.m. on those days receive time and one-half for the

twenty-four hours. The city seeks to end that payment. The city contended that the unit herein has a 51.7 hour work week; that the unit received a total amount of 504 hours off because of contract mandated off hours and that the unit works only 91-24 hour shifts throughout the year. All of the time and one-half, maintained the city, is for time paid without any additional work.

The calculations are as follows:

1. 52×51.7 equals 2688
2. 504 hours per year on contract mandated time off as follows:
 - a. Holidays $10 \times 24 = 240$
 - b. Vacation $10 \times 12 = 120$
 - c. Personal $2 \times 24 = 48$
 - d. Bonus $4 \times 18 = 72$
 - e. Compensatory $1 \times 24 = \underline{24}$

504
3. $2688 - 504 = 2184$ total hours worked
4. $2184 \div 24 = 91$ shifts worked

With only 91 shifts of work for the year, the city maintained that time and one-half for two of those 91 shifts is unconscionable. The city maintained further that the comparable communities of Berea, Independence, Middleburg Heights and Strongsville have no such payments. This is especially true, maintained the city, in light of the huge block of hours for holiday comparison with the other cities. The union sought the old contract language.

The city sought to reduce the number of holiday block hours by twelve. The union rejected that proposal.

It is the conciliator's award that the time and one half wage for Christmas and Thanksgiving days be rejected and that the current holiday hours be maintained. Therefore the current contract language as to holiday numbers shall remain the same but the time and one half for wage on Thanksgiving and Christmas days be rejected.

VIII. SICK LEAVE BONUS

The union sought to maintain the current language which stated;

"ARTICLE XX SICK LEAVE BONUS DAYS

20.01 In 1994, each employee shall be granted one (1) bonus day off with pay for not using sick leave time in any quarterly period. Quarterly periods under this Article shall be January through March, April through June, July through September and October through December."

The city sought the same as the police contract which contained the following;

"Each employee shall earn one (1) bonus day off with pay for not using sick leave time in any quarterly period. Quarterly periods shall be January through March, April through June, July through September and October through December. However, no employee shall be granted more than two (2) bonus days off with pay in a single calendar year, and bonus sick leave shall not be carried over from one calendar year to another."

There is no doubt that such payment of sick leave is an incentive

for good attendance. The requested change by the city cuts off two shifts per year of sick leave. There seems to be no compelling reason to make the requested change. The program seems to be working. There is no financial burden on the city to make such payments. It is nothing than a continuation of an old program. It is the order of the conciliator that such contractual program continues.

IX. COMPENSATORY TIME

The following is the clause the union seeks to continue and the clause of the old contract that the city sought to bring to closure:

"26.8 Shift Employees shall receive twenty four (24) hours of compensatory time which must be utilized in the calendar year, however, shift employees may carry over a maximum of six (6) hours of compensatory time under this provision which must be utilized in the first quarter of the succeeding calendar year and may be used to supplement sick leave bonus time off as set forth in Section 20.04."

The city has maintained that no other bargaining unit has this clause in their contract whether in the city or out of it. The city sought closure of this clause.

Quite frankly, there is no predicate for this clause. Generally, under the terms of the agreement a fair day's wage is a trade off for a fair day's work. This present clause is a give-a-way. There are no comparables. There is no reasons for the payment. It is the order of the conciliator that the compensatory payment described above shall be discontinued.

X. CONCLUSION

All of the issues have been covered and resolved. All of the issues have been fully explained.



MARVIN J. FELDMAN, Conciliator

Made and entered
this 30th day
of December, 1997.