

MAY 26 10 22 AM '98

IN THE MATTER OF CONCILIATION

BETWEEN

THE FRATERNAL ORDER OF POLICE/O.L.C.

AND

THE COLUMBIANA COUNTY SHERIFF

**SERB #97-MED 090861✓
97-MED 090862
97-MED 090863
97-MED 090864
97-MED 090865**

PRINCIPAL ADVOCATE FOR THE UNION:

**Hugh Bennett, Staff Representative
FOP/OLC
3076 Hillside Trail
Stow, Ohio 44224-4791**

PRINCIPAL ADVOCATE FOR THE COUNTY SHERIFF:

**John Barkin, Chief Negotiator
BARKIN & ASSOCIATES
P.O. Box 1417
Mentor, Ohio 44061-1417**

INTRODUCTION

There are five bargaining units involved in this conciliation. The first unit includes Deputy Sheriffs, Road Deputies, Detectives, and Correction Officers. The second unit is comprised of Sergeants and all ranks above Sergeant. The third unit is made up of Communications Personnel, Dispatchers, and Office Employees. The fourth unit includes all Cooks. The fifth unit is all Case Managers. These units carry out the total security and incarceration services for Columbiana County.

This conciliation departs from the norm in one important way. The Columbiana County Sheriff, the Columbiana County Commissioners, and the FOP are embroiled in a controversy involving the privatization of the corrections function in the County. The decision to privatize has been severely criticized by the Union and others. It has resulted in employees being slated for layoffs, arbitration over said layoffs, and numerous legal challenges. It is likely this dispute over privatization will be contested in various ways for several months or even years.

The State Employment Relations Board is the administrating agency over all matters of public sector bargaining in Ohio. As a member of SERB's Roster of Neutrals, this Conciliator practices strict adherence to SERB's rules and regulations and follows its advice on matters of fact-finding and conciliation. I have not received any special instructions or advice from SERB in the matter of conciliation before me.

After careful analysis of the fact-finding report preceding this conciliation, it is the determination of this Conciliator that my Award in this matter must be rendered in accordance with the requirements placed upon conciliators by SERB and the Ohio Revised Code. This is the conclusion arrived at by Fact-finder Burns and in the opinion of this Conciliator, it is the only logical course of action given the uncertainty of matters regarding the County's corrections operations.

A conciliation hearing was held on April 20, 1998 in Boston Township, Ohio. The parties were given a full opportunity to present evidence and testimony on behalf of their positions. The hearing was closed following these presentations and a decision is to be rendered in this matter by May 25, 1998. There are four unresolved issues that are the subject of this conciliation. They are:

1. Wages,
2. Shift Differential,
3. Uniform Allowance,
4. Bargaining Unit Work/Subcontracting.

CRITERIA

OHIO REVISED CODE

The Award of a Conciliator is based upon the criteria found in Section 4117.14 (C)(4)(E) of the Ohio Revised Code and SERB Rule 4117-9-06(H). For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

The recommendations of the Fact-finder should be carefully considered in matters of conciliation provided they are based upon the same set of facts, follow the statutory guidelines listed above, are free of error, and represent sound reasoning in a collective bargaining context.

ISSUE 1 WAGES, ARTICLE 24, SECTION 1

Employer's Position

The Sheriff accepts the recommendation of the Fact-finder with respect to wage increases for all bargaining units except Corrections personnel units.

Union's Position

The Union accepts the recommendation of the Fact-finder in total. All employees, including those employees in corrections bargaining units would receive the recommended increase of 4% in 1998, 3% in 1999, and 3% in the year 2000.

Discussion

I have carefully reviewed the report of Fact-finder Burns and find it to be reasonable, logical and persuasive. Essentially, the parties are in agreement regarding the comparable data supporting the Union's position and the need to provide an extra 1% increase in the first year of the Agreement. Furthermore, the percentage increase recommended by Fact-finder Burns are in line with the average increases being provided by other public sector employees in Ohio.

Award

The recommendation of the Fact-finder shall be implemented for all bargaining unit employees retroactive to January 1, 1998. (Union's position)

ISSUE 2 SHIFT DIFFERENTIAL, ARTICLE 24, SECTION 3

Employer's Position

The Employer takes the same position as it did with Issue 1. It accepts the Fact-finder's report, except for Corrections personnel.

Union's Position

The Union accepts the Fact-finder's recommendations for all bargaining unit employees.

Discussion

As concluded by Fact-finder Burns shift differentials are a common provision in collective bargaining agreements. Scientifically we know a lot more about the human body's internal clock and how it impacts work performance, increases stress and affects family life. There is justification for providing pay to employees who work second and third shift.

Award

Implement the recommendations of Fact-finder Burns for all bargaining unit employees who work second and third shifts. (Union's position)

ISSUE 3 UNIFORM ALLOWANCE, ARTICLE 27, SECTION 2

Employer's Position

The Sheriff accepts the Fact-finder's recommendation on increasing the Uniform Allowance for Road Deputies and Dispatchers only.

Union's Position

The Union accepts the Fact-finder's recommendation to increase the uniform allowance for all members of the bargaining unit that receive a uniform allowance under the language in Article 27.

Discussion

I concur with Fact-finder Burns in providing a uniform allowance increase of \$100.00 to those employees already included in Article 27. There is insufficient comparable evidence to support on expansion of this benefit at this time. Most importantly, the Union accepts the Fact-finder's recommendation.

Award

Implement the Fact-finder's recommendation. (Union's position)

ISSUE 4 NEW ARTICLE, BARGAINING UNIT WORK/SUBCONTRACTING

Employer's Position

The Employer rejects the Fact-finder's recommendation on this issue. The Employer argues it cannot limit all bargaining unit work to only bargaining unit members. This situation is further complicated when the inmate population is greater than the space available. In the past when overcrowding occurred the Sheriff had to place inmates in other facilities.

Union's Position

The Union accepts the recommendation of the Fact-finder.

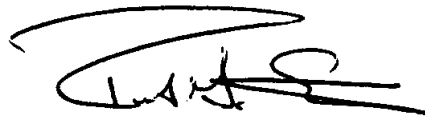
Discussion

I find no compelling reason to disagree with the rationale of the Fact-finder in this matter. It is obvious that this is a very important issue for the Union in light of the uncertain times for the bargaining unit. The language being proposed by the Union was rejected by the Employer, yet it is more protective than restrictive in nature. It allows for work to be completed by people other than bargaining unit employees in emergencies and when bargaining unit employees are not available. I also concur with the Fact-finder's recommendation regarding subcontracting. His reasoning is sound, based in fact, and adheres to the statutory criteria that neutrals are obligated to follow.

Award

Implement the Fact-finder's recommendations regarding subcontracting and contracting-out.
(Union's position)

The Conciliator respectfully submits this Award to the parties this twenty-second day of May,
1998 in Summit County.



ROBERT G. STEIN, CONCILIATOR

SERVICE

Copies of this Award and invoice were mailed this 22nd day of May, 1998 to G. Thomas
Worley, John Barkin, and Hugh Bennett.

A handwritten signature in black ink, appearing to read 'R. Stein', written over a horizontal line.

ROBERT G. STEIN, CONCILIATOR