

JUN 17 10 28 AM '98

IN THE MATTER
OF
CONCILIATION
BETWEEN
THE CITY OF GIRARD
AND
THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION

M.A.D. Procedure
SERB Case #97-MED-09-0935

Principal Advocate for the Employer:

John K. Alberty, Esq.
Alberty Law Offices
193 E. Whittier Street
Columbus, Ohio 43206

Principal Advocate for the OPBA:

Jon R. Heineman, Business Agent
OPBA
10 Beech Street
Berea, Ohio 44017

2

8

INTRODUCTION

A hearing on the above matter was conducted on June 4, 1998 in Girard, Ohio. The parties were given a full opportunity to present evidence and testimony on behalf of their positions. The parties mutually agreed to waive the statutory impasse procedures under O.R.C. 4117.14. The parties agreed to final and binding arbitration as the alternative settlement procedure. The M.A.D. calls for the conciliator to utilize the criteria and guidelines established under O.R.C. Chapter 4117 (Appendix 1).

The bargaining unit is comprised of six (6) employees, all holding the rank of Captain in the Girard Police Department. The parties held seven (7) bargaining sessions before declaring impasse on the following two (2) issues: Article 17, Section 2, Overtime and Court Pay language, and New Article: Fire Arms Qualification Allowance.

CRITERIA

OHIO REVISED CODE

The Award of the Conciliator is based upon the criteria set forth in SERB Rule 4117-9-06(H) and Section 4117.14(C)(4)(e) of the Ohio Revised Code:

1. Past collective bargaining agreements, if any, between the parties;
2. 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;
3. The interest and welfare of the public and the ability of the employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
4. The lawful authority of the employer;
5. Any stipulations of the parties;
6. Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed upon dispute procedures in the public service or private employment.

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 the collective bargaining context.

ISSUE 1 ARTICLE 17, SECTION 2, OVERTIME AND COURT PAY

Union's Position

The Union proposes that the last sentence of the Employer's proposal be deleted. The Union can accept the remainder of the proposal.

Employer's Position

The Employer proposes the language remain as proposed including the last sentence that reads, "This provision is intended where applicable to only offer Road Captains overtime for the replacement of Road Captains."

Discussion

The provision in dispute reads as follows:

Section 2. Overtime Scheduling. Overtime shall be offered, on a rotating basis, first to the full-time members of the classification of the member who is absent, regardless of turn staffing, or if not a regularly scheduled shift, to the full-time members of the bargaining unit. In the event that no full-time members of the classification will work the overtime, then it may be filled by a member of another classification, if the turn shortage falls below minimum staffing. This provision is intended where applicable to only offer Road Captains overtime for the replacement of Road Captains.

The Union is objecting to the exclusivity of the last sentence of this provision, especially as it relates to the classification of detective. However, what is lacking is convincing evidence to support the right of a Road Captain to do detective overtime and vice versa.

Article 3 of the Collective Bargaining Agreement identifies full-time captains as the employees who comprise the bargaining unit. There is consistent with the definition of the bargaining unit and the exclusive language contained in Article 17, Section 2 as proposed by the Employer. This language acts to protect and preserve the overtime opportunities of captains, and I find it to be reasonable in light of the above analysis.

Award

The language of Article 17, Section 2 shall read:

Section 2. Overtime Scheduling. Overtime shall be offered, on a rotating basis, first to the full-time members of the classification of the member who is absent, regardless of turn staffing, or if not a regularly scheduled shift, to the full-time members of the bargaining unit. In the event that no full-time members of the classification will work the overtime, then it may be filled by a member of another classification, if the turn shortage falls below minimum staffing. This provision is intended where applicable to only offer Road Captains overtime for the replacement of Road Captains.

ISSUE 2 NEW PROVISION: FIREARMS QUALIFICATION ALLOWANCE

Union's Position

The Union asks that the Conciliator award the Captains the same firearm qualification allowance given to the Patrolmen. This allowance is an annual lump sum payment of \$300.00.

Employer's Position

The Employer argues that the negotiations leading up to this impasse produced a wage settlement that establishes a 15% differential between Captain and Patrolman. This agreement on wage differential translates into a 10.38% increase in the first year of the Agreement. The previous differential between these two (2) classifications was 7.8%. The Employer contend that this raise (differential increase, plus general increase equal to the raise provided to the patrol unit) far exceeds the general increase and the annual lump sum \$300.00 of a firearms allowance settlement with the patrol unit.

Therefore, the Employer disagrees with the inclusion of this Article in the Agreement.

Discussion

The Union's representatives made a compelling argument for the importance of treating one (1) bargaining unit of police the same as another. Internal equity is a very powerful force when an employer is dealing with multiple bargaining units. However, the fact is equity comparisons are more persuasive where there are like bargaining circumstances providing the context for such comparisons. In this round of bargaining the bargaining circumstances of the two (2) police units are very different. The two (2) police units are "plowing new ground" in different areas.

The Union is right when it argues that Captains, like Patrolmen, must requalify annually for carrying a firearm. However, in the next contract period Captains will receive a three (3) year increase of close to 18%. In contrast the patrol unit will receive an increase of 10.5% plus \$900.00. This factor must be given considerable weight when analyzing the issue of "internal equity." The OPBA has firmly established an important and fair differential that will provide a stable platform for future wage increases. On the other hand, the Patrol Unit has pioneered a new benefit.

I understand the bargaining unit's view that the differential of 15% was long in coming. However, this does not diminish the importance or financial significance of finally having it secured. 1998 must be viewed as a milestone year for the OPBA and the City. In this round of bargaining I find the issue of internal equity with the patrol unit to be more a matter of perspective than substance.

Award

In light of the Union's gains in salary differential, no new language is awarded regarding Firearms Qualification Allowances.

TENTATIVE AGREEMENTS

All other issues tentatively agreed to prior to conciliation are considered to be part of this Award.

The Conciliator respectfully submits the above Award to the parties this 15th day of June, 1998 in Summit County, Ohio.

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

Robert G. Stein, Conciliator

SERVICE

Copies of this Award and invoice were mailed this 15th day of June, 1998 to
G. Thomas Worley, John K. Alberty, and Jon R. Heineman, Business Agent.



Robert G. Stein, Conciliator