

84-001

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

84-001

5/25/84

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In the Matter of
Worthington Education Association,
Employee Organization,
and
Worthington Board of Education,
Employer.

Case No. 84-MF-05-0920

DECISION AND ORDER

Before Vice-Chairman William P. Sheehan
and Board Member Helen H. Fix;
May 24, 1984.

FINDINGS OF FACT

This cause came on to be heard on May 1, 1984 upon the filing of a Notice to Negotiate by the Worthington Education Association ("Association"), an exclusive representative under R. C. 4117.01 (E), with service to the Worthington Board of Education ("Employer"), a public employer under R. C. 4117.01 (B). The Association sought to negotiate under R.C. Chapter 4117, the Collective Bargaining Act ("Act"), and to invoke the Act's dispute settlement procedures. The matter was heard by the State Employment Relations Board ("Board") on May 23, 1984.

The Association and the Employer operated under a collective bargaining agreement ("Agreement") from January 1, 1982, to December 31, 1983. Section 42.2 of the Agreement provided: "If by December 31st of the year negotiations occur, the parties do not reach an agreement, Articles I, II, XI, XVI, and XVII shall remain in full force and effect until a subsequent Agreement is reached."

Article II of the Agreement contained a Negotiations Procedure, Section 2.7 of which provided for an impasse resolution procedure. The impasse resolution procedure became effective if the parties had not reached agreement by November 15, 1983. It provided for the appointment of a mediator/arbitrator who would attempt mediation. If mediation was unsuccessful, a fact-finding report would be submitted to the parties for consideration. If, after ten days, no agreement had been reached, the non-binding report would be put to a vote.

The parties commenced negotiations in September, 1983, in an effort to reach a successor agreement. When, by November 15, 1983, the parties were unable to reach agreement, the impasse resolution procedure was invoked according to its terms. Since mediation was unsuccessful, the mediator/arbitrator engaged in fact-finding and submitted a report.

In February, 1984, after ten days had passed without agreement, the non-binding mediator/arbitrator's report was ratified by the Association and rejected by the Employer. The agreement contained no provision to govern the actions of the parties beyond this point. The provisions of the impasse resolution procedure were fully exhausted. The parties had not reached an agreement. Further efforts to resolve the parties' differences

CONCLUSIONS OF LAW

The issue before the Board is whether the procedure set forth in Section 4117.14 (C) (2) of the Act should apply to the parties in this case. The Employer argued that since the 1982/83 collective bargaining agreement included a mutually agreed upon dispute resolution procedure which continued in effect after the expiration of the contract, this procedure, pursuant to Section 4117.14 (C) (1) of the act, supersedes the procedures contained in that Section of the Act. Thus, Section 4117.14 (C) (2) should not apply. The Association argued that with the expiration of the collective bargaining agreement and with the exhaustion of the negotiations impasse procedure provided therein, the Board should invoke Section 4117.14 (C) (2) and appoint a mediator to assist the parties in the collective bargaining process.

The Board holds that on April 1, 1984, when the Act came into effect, no operational dispute settlement procedure existed as an alternative to the procedures provided by the Act.

Because of the Board's holding on this narrow issue, there is no need to rule on whether the impasse resolution procedure agreed upon by the parties in their 1982/83 collective bargaining agreement supersedes the Act's conciliation procedure as set forth in Section 4117.14(C)(1). Even if the contractual negotiations procedure supersedes the Act's conciliation procedure, it had been fully exhausted before the Act came into effect on April 1, 1984. Thus, pursuant to Section 4117.14(C)(2), the Board will appoint a mediator to assist the parties in the collective bargaining process.

The Board would like to point out that at the hearing both parties conceded that each conducted negotiations in good faith. The Board encourages the parties to continue to negotiate in good faith and to build upon the progress they have made toward a resolution of their differences.

ORDER

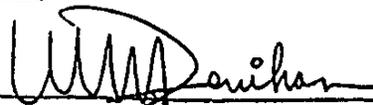
The parties are hereby ordered to engage in mediation with a mediator to be appointed by the Board and to follow the procedures set forth in Section 4117.14 (C) (2)-(6) of the Act.

It is so ordered.

Sheehan, Vice-Chairman, and Fix, Board Member, concur.

I hereby certify that this document was filed and a copy served upon each party on this 25 day of May, 1984.

By



WILLIAM M. DENIHAN
ACTING EXECUTIVE DIRECTOR