

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT
RELATIONS BOARD
2001 MAR 21 A 10:46

In the Matter of the Fact Finding Between:

AFSCME, OHIO COUNCIL 8,)	BEFORE FACT FINDER
LOCAL 3577)	JAMES E. RIMMEL
)	
and)	CASE NO. 00-MED-10-1119
)	
MAHONING COUNTY DEPARTMENT)	HEARD: 6 March 2001
OF HUMAN SERVICES)	Youngstown, Ohio
(Division of Child Support Enforcement)	
Agency))	ISSUED: 19 March 2001

APPEARANCES

On Behalf of AFSCME: Jaladah Aslam

On Behalf of the Board: J. Kevin Sellards

BACKGROUND

The genesis of this present impasse dispute dates back to the parties' consummation of the existing collective bargaining agreement wherein, under Article XLI, it was "agree[d] to reopen the agreement for the purpose of negotiating wages only no later than December 1, 2000." Under this agreement, the parties also agreed to 3% wage increases effective 1 January 1999 and 1 January 2000. Additionally, it was provided that effective 1 October 1999, "each bargaining unit employee will work eight (8) hours per day exclusive of a lunch period. Each bargaining unit employee shall receive a 3% hourly increase in lieu of 15 minutes paid lunch time." In any event, the Union gave notice of its intent to reopen and the parties met on one (1) occasion before fact finding to discuss

the matter of wages for calendar year 2001. At that meeting, the Union proposed an across-the-board adjustment of 5% plus a one (1) thousand dollar signing bonus. In turn, the Board reportedly made no formal offer, though, in its pre-hearing statement to this Fact Finder, it indicated that it would "possibly" seek concessions given the present financial conditions being faced by this Agency.

At hearing, both sides were provided the opportunity to proffer testimony and/or other forms of evidence with both availing themselves to that opportunity. The Union, in its proffer, contended the record clearly demonstrates others within Mahoning County, as well as at this particular Agency, have been accorded various types of increases ranging from 3 to 17+% over the past year. It argues further the record shows the increases provided this group over the past year simply have not kept pace with inflation, resulting in unit employees being, at the very least, a ½% point behind published CPI data. The Union, moreover, argues the poor economic picture described by the Board is based upon speculation and not fact and thus cannot be accorded much weight as to possible budgetary shortfalls. It emphasizes further that non-represented and Teamster-represented personnel were accorded substantial increases, the latter coming as a result of a decision by another Fact Finder in Case No. 00-MED-30-0304, a decision that not only provided for an across-the-board cost of living increase but also structure and equity adjustments.

The Union argues also this record is replete with examples of mismanagement in the administration of payroll, hiring of superfluous excluded personnel, failure to manage all to ensure a balanced workload, etc. It likewise contends caseload sizes have increased significantly while Management continues not to fill vacancies created by various forms of attrition.

In contrast, the Board argues that current/projected financial conditions of this Agency simply do not allow for the awarding of any additional forms of compensation to unit personnel in 2001.

It emphasizes the Auditor's December 2000 certification of a \$1,300,000.00 shortfall in Agency revenues necessitating a transfer of funds by the County Commissioners to this Agency. It likewise emphasizes the future availability of various sources of funding is quite questionable. It notes further the Board's recommendation to the County Commissioners to reduce the Agency's work force by at least 16 effective 23 March 2001. It emphasizes this layoff alone will not be suffice to bring about a balanced budget . It notes further the planned consolidation of agencies into one facility, thus futher reducing costs for CSEA. The timing, however, according to the Board, remains uncertain as does the potential benefit, if any, to be derived therefrom for the present fiscal year(s). Simply put, the Board raises the issue of a lack of ability to pay any increases in compensation for the year 2001.

RECOMMENDATION

AMEND ARTICLE XLI TO PROVIDE FOR THE REOPENING OF THE PARTIES' CONTRACT ON 15 JULY 2001 FOR THE PURPOSE OF NEGOTIATING WAGES ONLY FOR CALENDAR YEAR 2001. ALL NEGOTIATED INCREASES, IF ANY, SHALL BE MADE RETROACTIVE TO 1 JANUARY 2001.

RATIONALE

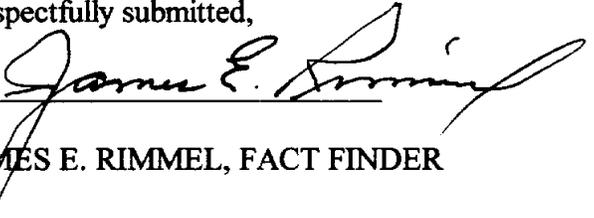
While a considerable amount of the Union's evidence concerned issues of alleged mismanagement, some of which appear to be valid, especially in the area of the administration of payroll dating back to at least 1994, that reality does not, in and of itself, allow for the compounding of these earlier mistakes/acts by recommending a wage increase for employees when an agency lacks the present ability to pay. This is especially so where available data suggest that without material

change in the availability of financial resources, this Agency will face a 1.3 million dollar shortfall in each of the next three (3) years. While this shortfall arguably will be reduced if planned consolidation and cutbacks are fully implemented those actions alone will not suffice to eliminate this deficit entirely. As to the future availability of poundage and federal/state revenues, those issues are simply uncertain at best, although they should be resolved before the start of this Agency's next fiscal year in July 2001. And, while there is some dispute as to the exact extent of the negative impact from these funding sources, the Union does not really dispute these basic contentions of the Board as to a budgetary shortfall.

Now, it is realized in late August of last year this Agency, via alleged default by the Commissioners, adopted a fact finder's recommendation for substantial structure, equity and cost of living adjustments for members of Teamsters Local 377's legal unit. What is noteworthy, in addition to the amounts awarded are the statements of the fact finder where he states at 6: "[T]he undersigned inquired as to the inability to pay. The Employer states that inability to pay would not be raised as a defense...the argument of the Employer is strong, but all arguments of lack of funding are speculative." This obviously is not the situation which is before me for the Board clearly advances an inability to pay argument as allowed under Administrative Rule and Statute and proffered sufficient data to establish the legitimacy of its contention. It is true that some of the Board's concerns are premised upon uncertain actions yet to be defined by state government, but the reality of the matter is this Agency is facing a substantial budgetary shortfall with or without poundage and continued present level of federal/state funding. If the poundage is redirected and/or state funding prove no longer available, this situation will only worsen. In any event, this record suggests that many of the uncertainties, including consolidation of offices, distribution of court ordered poundage and/or

continued availability of federal/state dollars, will clarify itself by the beginning of the next fiscal year, i.e., 1 July 2001. This certainty as to what funds will or will not be available to this Agency suffices to support the afore Recommendation. In doing so, it leaves open the possibility that some form of adjustment may be forthcoming for these employees in 2001. I realize that the level of frustration expressed at hearing by those who testified on behalf of the membership is quite high, much of which, however, is grounded in matters that simply were not before me. Whether payroll administration, job content and/or equity within job assignments require further redress, that is something the parties will have to address in labor/management or in the latter part of this year in conjunction with their negotiations of a successor collective bargaining agreement effective 1 January 2002. The simple fact of the matter is the only issue before me is that of wages and this employer has proffered sufficient data to demonstrate an inability to pay. As such, and whether tempted or not, to recommend a wage adjustment in this environment would simply represent an act of malfeasance and, even if adopted, would, in all likelihood, result in additional layoffs from within this unit in order to support that increase. It would also require I ignore the findings of the County's Auditor relative to the budgetary shortfall for this Agency. This I cannot rightly do, leastwise on this record. Accordingly, I have recommended that the decision as to whether these employees can be granted a wage increase for the year 2001 be deferred for an additional 4+ months. In other words, available financial data simply do not allow for my recommending that being sought here by the Union, a proposal approximating slightly less than a 9% adjustment or even an amount less than that requested.

Respectfully submitted,

By: 
JAMES E. RIMMEL, FACT FINDER