

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

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2002 JUN 10 A 9: 23

In the Matter of Fact-Finding :
Between :
RICHLAND COUNTY SHERIFF, :
Employer, : Case No: 01-MED-09-0740
-and- :
FRATERNAL ORDER OF POLICE, :
OHIO LABOR COUNCIL INC., :
Union. :

FACT FINDING AND RECOMMENDATIONS

Richard E. Gombert, Fact-Finder

APPEARANCES

For the Richland County Sheriff:

Jonathan J. Downes, Esq.
Downes, Hurst & Fishel
400 South Fifth Street, Suite 200
Columbus, Ohio 43215-5492

For the Fraternal Order of Police, Ohio Labor Council Inc.:

Hugh C. Bennett
FOP Staff Representative
3076 Hillside Trail
Stow, Ohio 44224-4791

SUBMISSION

The undersigned was appointed Fact-Finder in this dispute on or about November 30, 2001. There was a collective bargaining agreement in full force and effect between the Richland County Sheriff (hereinafter sometimes referred to as the "Sheriff" or the "Employer") and the Fraternal Order of Police, Ohio Labor Council Inc. (hereinafter sometimes referred to as the "Union" or "FOP"). The labor contract became effective on February 8, 1999. It expired on February 8, 2001. The bargaining unit consists of fifteen (15) full-time employees. It includes nine (9) sergeants, four (4) lieutenants and two (2) captains.

The parties have negotiated intensely. They have had several meetings. The parties resolved some of the issues. But, they were not able to resolve one issue involving one (1) article in the collective bargaining agreement.

The parties agreed to fact-finding hearings on April 2 and 17, 2002. The meetings were held in a conference room in a building in Richland County, Ohio.

There were several people present at the hearings in addition to the Representatives and the Fact-Finder. They are as follows:

For the Sheriff:

Jeffrey L. Appel	Attorney
Jim Burch	Major
Roger Paxton	Major
Ed Welsh	Assistant Jail Administrator

For the Union:

Michael Viars	Sergeant
Debra Strine	Sergeant
Dale Rhodes	Lieutenant

The parties were not able to agree on one (1) issue involving one (1) article. Therefore, the Fact-Finder heard evidence submitted by the parties on that point.

In rendering this Award, the Fact-Finder has given full consideration to all reliable information relevant to the issues and to all criteria specified in O.R.C. Sec. 4117.14(C) (4) (e) and Rule 4117-9-05(J) and (K) of the State Employment Relations Board, to wit:

- (1) Past collectively bargained agreements 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, the ability of the public 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 public employer;
 - (5) Stipulations of the parties;
 - (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

ISSUE IN CONTENTION

ARTICLE 39 – LAYOFF AND RECALL

Employer Position: The Sheriff believes that the language in Sections 39.01 and 39.02 should be clarified and simplified. It should recognize the Employer's authority to determine from which classifications layoffs will occur. It should provide that there should not be any displacement between bargaining units. It should be the exclusive procedure.

Union Position: The FOP believes that no member of this bargaining unit shall be affected by a layoff before any full-time sworn deputy with less seniority in the division has been laid off. Also, it should not cede all of the rights contained in the Revised or Administrative Codes.

Discussion: The Union's proposal contemplates something uncommon and rather unique. An employee, in this bargaining unit, would be able to use seniority acquired in a different bargaining unit to avoid a layoff. This position appears to be unfair to fellow employees who have more seniority in the affected bargaining unit. They could be laid off in a situation wherein an employee (who has less bargaining unit seniority) would retain his job.

Next, it must be noted that this unique FOP position does not exist in the labor contracts that it has with the Sheriff involving the deputies bargaining unit and the civilians bargaining unit.

Fact-Finder Decision/Recommendation and Rationale: The Employer's proposal is the better proposal. It is more clear than the current language. The Sheriff's proposed language in Sections 39.01 and 39.02 should be adopted.

There really isn't any justifiable reason to allow an employee to use seniority, which was acquired in a different bargaining unit, to gain an advantage over a fellow employee in this bargaining unit in a situation involving layoffs. It does not appear to be fair. It should not become a part of this collective bargaining agreement. The FOP did not cite any comparables to justify this position.

Next, there are two (2) other labor contracts between these two (2) parties. This unique proposal does not exist in either of those collective bargaining agreements. It should not be a part of this one.

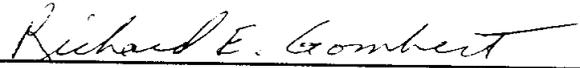
The Union proposal is not well-taken.

TENTATIVE AGREEMENTS

The parties reached tentative agreement on many items prior to the hearings on April 2 and 17, 2002. Then, they tentatively agreed to several items at the hearings on April 2 and 17, 2002. Then, they tentatively agreed to several items after the hearings on April 2 and 17, 2002. The Fact-Finder did not rule on any of these items. But, the parties want some assurance that those tentative agreements are known to be part of the total package. Therefore, it is understood that all tentatively agreed items are considered to be part of this Report and Recommendations.

This concludes the Fact-Finder's Report and Recommendations.

Respectfully submitted,



Richard E. Gombert
Fact-Finder

Worthington, Ohio
June 7, 2002