

STATE EMPLOYMENT
RELATIONS BOARD

2002 AUG 12 A 9:28

IN THE MATTER OF FACT-FINDING

BETWEEN

THE PERRY ORGANIZED WORKERS

AND

PERRY TOWNSHIP

BEFORE: Robert G. Stein

SERB CASE NO. 01 MED 09 0822

PRINCIPAL ADVOCATE FOR THE UNION:

Thomas W. Kimmins
Attorney at Law
11 Lincoln Way, East
Massillon OH 44646

and

PRINCIPAL ADVOCATE FOR THE COUNTY:

Charles D. Hall, III
Attorney at Law
610 Market Ave. North
Canton OH 44702

INTRODUCTION

The bargaining unit is comprised of approximately twelve (12) employees in the Road Maintenance Department. They are employed in the classifications of Probationary Employee, Road Maintenance Specialist, Assistant Mechanic, Mechanic, and Foreman. The bargaining unit is represented by the Perry Organized Workers (hereinafter referred to as "Union"). The population of Perry Township (hereinafter referred to as "Employer" or "Township") is approximately 30,000. In 2001 the Township passed a renewal of a 1986 road levy. The parties successfully resolved several issues prior to impasse.

During the hearing the parties reached tentative agreement on adopting random drug testing language similar to what is used in Jackson Township or with the Stark County Engineer office. The parties agreed to remove this issue from fact-finding. The remaining issues to be resolved by the Fact-finder are uniform allowance, wages, longevity, and major medical coverage. Both Advocates represented their respective parties well and clearly articulated the position of their clients on each issue in dispute. In order to expedite the issuance of this report, the Fact-finder shall not restate the actual text of the parties' proposals on each issue but will instead reference the Position Statement of each party. The Union's Position Statement shall be referred to as UPS and the Employer's Position Statement shall be referred to as EPS.

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C)(4)(E) establishes the criteria to be considered for fact-finders. 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.

These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following recommendations are made:

ISSUES 1 AND 2 COMPENSATION AND LONGEVITY

Union's position

SEE UPS

Employer's position

SEE EPS

Discussion

Retroactivity

The Union is seeking an across-the-board wage increase of three percent (3%) in each of years 2002, 2003, and 2004. This would raise the Road Maintenance hourly rate to \$16.17 (2002), \$16.66 (2003), and \$17.16 (2004). The Union is seeking retroactivity to January 1, 2002. It is unclear from the evidence whether the parties agreed to make all applicable terms of the agreement retroactive to January 1, 2002. The Union argues that the parties agreed to retroactivity when they realized they would be unable to reach a settlement prior to January 1st.

The Employer argues it was willing to make wages retroactive providing the parties reached a settlement at or near the beginning of 2002. It blames the Union for not accepting its position and states retroactivity should be withheld given the Union's recalcitrance. The history of bargaining between the parties establishes the fact that retroactivity has never been an issue prior to the current round of bargaining. The Employer also provided no evidence as to why the retroactivity should be withheld for the first time in this round of bargaining simply because the Union found the Employer's wage offer to be unacceptable. Because it is impossible to factually discern the true intent

of the parties in the current round of bargaining regarding retroactivity, the Fact-finder will adhere to the historical pattern the parties have established to provide it.

Wages

The Employer proposes a two percent (2%) wage increase for each of the three years of the agreement. This will establish wages at the level of \$16.01 in 2002, \$16.34 in 2003, and \$16.67 in 2004. It argues that its proposal is based upon comparable wage rates in similar job classifications in the City of Massillon, Canton, Jackson Township, Lake Township, and Plain Township. The Employer argues that wages are a part of a total compensation package that includes other major components such as insurance. For example, it contends that because the bargaining unit enjoys one of the *“richest Major Medical Hospitalization Plan/Health Insurance Benefit Packages within the State of Ohio”* this should be considered when considering compensation.

Although the Employer carefully articulated the finances of the Township and the commitment it has made to the public to allocate levy funds to road paving and improvements, ability to pay was not raised as an issue that would prevent it from providing a reasonable wage increase. The fiscal climate of Perry Township and Stark County in general appears to reflect the uncertainty prevalent in Ohio and in the national economy. Ohio is dependent upon manufacturing, which historically is slow to recover from a recession. Recently, the economic news has been anything but good. Last week, figures from the U. S. Department of Labor indicate that new job creation is very low and productivity is slowing. The conventional wisdom appears to be that if recovery from the recession is in the offing, it is likely to be slow. Of course, these prognoses vary, but very few economists are positive regarding the economy at this time.

However, the Union's proposal of three percent (3%) is not out of line with the general increases provided in nearby counties or in the state of Ohio generally. For example, in Summit County and Medina counties three percent (3%) settlements have been common among various public entities. Within Stark County, the City of Massillon negotiated five percent (5%) wage increases with its employees in each year of three year contracts; however, there were some quid pro quo exchanges in other areas that offset these above-average increases. The Stark County Park District recently settled for increases that exceeded three (3%). The state of Ohio is in the third year of a three year contract that provides for a three percent (3%) increase in wages.

The most relevant comparable data is often internal comparable data, i.e., what other bargaining units and employees in the Township are receiving. The Township police and dispatcher units both are in the middle of three year contracts that provide them with increases that exceed three percent per year for 2002, and the non-bargaining employees in the Township received a 2.5% increase for 2002. It is understood that there are many factors, such as market rates and inequity, that comprise wage settlements. However, it is clear that bargaining unit employees within the Township and many outside of the Township are receiving wage increases that support the Union's position in this matter.

Longevity

The Employer argues that there is very little turnover in the bargaining unit, and there is little need for introduction of longevity as a retention tool. The only job vacancy that has ever occurred in the Road Department came as a result of a retirement, contends the Employer. The Employer contends that proposed longevity would cost about \$1200

per employee per year. The Union argues that the comparable townships of Jackson, Lake, and Plain all have longevity plans that provide them with additional compensation of between .25 and \$1.00 per hour. The Union contends that the longevity plan they are proposing would cost about \$9,600 on a straight-time basis.

Although the Union was able to provide external sound comparable data to support its position, there was no indication that any other Township employees (bargaining or non bargaining) currently receive longevity. The uncertainty of the economic climate and the level of health care benefits provided to the bargaining unit (at no cost) are two factors that argue against the introduction of a new salary expense at this time. Longevity is sometimes used as a retention tool and the Union did not refute the Employer's contention that it has been successful in retaining employees in the Road Department. Sometimes longevity is a simply a method of supplementing wages. However, there is no history in the Township to demonstrate that this has been the approach taken by any of the bargaining units to provide additional compensation.

Recommendation

Wages shall be adjusted as follows:

Effective January 1, 2002 wages shall be increased by three percent (3%).

Effective January 1, 2003 wages shall be increased by three percent (3%).

Effective January 1, 2004 wages shall be increased by three percent (3%).

ISSUE 2 INSURANCE

Union's position

See UPS

Employer's position

See EPS

Discussion

The Employer's concerns regarding health care costs are well founded. It argues that in 2001, it paid \$7,291 per employee for health care coverage. And it is estimating that this amount will rise to \$7,576 per employee in 2002. This is an increase of 21%. The Union contends that the Employer was not serious about this issue early in negotiations and only raised it late in the bargaining process. It also contends that the changes being sought would cost each employee about \$1.25 per hour in wages.

Other public employers in Ohio are experiencing double digit increases. Health care has been a major concern of employers for years, and there does not appear to be any immediate solution on the horizon. It is not uncommon for public employers to require its employees to share in premium costs, provided such sharing is done in a uniform and reasonable manner. Health care coverage is generally a benefit provided to all employees on an equal basis, including managerial employees.

When compared to what other employees receive in Ohio, it is clear that the bargaining unit has the advantage of a valuable health care benefit. SERB data indicates a majority of public employees contribute toward their health care. However, employees have enjoyed this benefit since they began their employment, and crossing the threshold of having to pay for premiums and making deductible payments represents a substantial change. While it is recognized that someone has to take the first step, transitions of this nature and magnitude are most successful if management (normally representing the

highest paid employees) leads by example. In addition, it is very helpful if the change comes about after the parties have jointly engaged in dialogue and education to control costs.

It is notable that the Employer did not introduce this proposal until late in the bargaining process. It is difficult to understand why a change of such magnitude would be introduced so late in the negotiations. Finally, it must be stated that what the Employer is proposing represents a reduction of overall compensation for employees. If a health care provision already includes the principle of shared costs, it is expected that there will be increased costs passed along to bargaining unit members. These costs are normally incremental in nature, anticipated, and do not have a substantial impact on an employee's compensation.

However, what the Employer in this matter is attempting to do is to immediately move from fully paid insurance to a partially paid insurance and to pass along the full impact of a twenty percent (20%) increase in premiums and deductibles to all bargaining unit employees. A benefit reduction and cost shift of this magnitude customarily requires an employer to provide some type of offsetting form of compensation or like benefit that will soften the impact of such a change. The Employer has not made an enhanced wage offer nor has it indicated a willingness to agree to another benefit that would help to offset this proposed change in the health care benefits costs.

As an aside, it is also not uncommon for public employers to provide a higher increase in compensation to offset dramatic rises in health care costs in bargaining situations where cost sharing has already been established. For example, in Medina County, recent wage settlements with several county entities provided for an across-the-

board salary increase of three (3%), plus a lump sum payment of \$325 to help offset the impact of a substantial incremental rise in health care premiums that were being passed along to employees.

The Employer is asking one of the lower paid bargaining units to begin to pay twenty percent (20%) of the premium costs for health care and to share the benefits of the comprehensive benefit coverage on a 20-80 basis. The Employer has valid reasons for its concerns regarding the increasing costs of providing healthcare coverage. However, there are no other organized or non-bargaining unit employees, including management employees, setting an example in the Township by sharing in these costs. Furthermore, it may be argued that other higher paid employees in the Township are in a better financial position to absorb a substantial shift in premium costs, if such cost shifting is justified.

While it is not uncommon for employees to begin to share in such increases, it should be introduced in a more equitable and cooperative manner. It helps if the groundwork is established in advance. Health coverage is a complicated subject that requires involvement over a period of time to be understood. Joint employer-employee health care committees (made up of representatives from all bargaining units and from management) are one proven way in which employees and employers become educated and work together to address the conundrum of providing reasonable health care coverage at an affordable cost. I find that at this point in time, the groundwork for such a change has not been made.

Recommendation

Maintain current language for all health care coverage.

ISSUE 3 UNIFORM ALLOWANCE

Union's positions

See UPS

Employer's position

See EPS.

Discussion

The parties engaged in productive dialogue during the hearing regarding this benefit. They were able to clear up misunderstandings regarding each other's positions and were able to reach an understanding that is represented in the below listed recommendation.

Recommendation

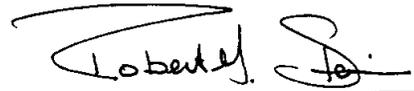
Replace current Article 29, Section 4 with the following language:

The Employer shall provide work gloves, rubber boots, and rain gear for each employee. The Employer shall provide up to \$400 per year, per employee to purchase a uniform from Cintas, or equivalent supplier, to be chosen from a current catalogue and a list of items agreed upon by the Employer and the Union.

TENTATIVE AGREEMENTS

During negotiations, mediation and fact-finding the parties reached tentative agreements on several issues. These tentative agreements are part of the recommendations contained in this report.

The Fact-finder respectfully submits the above recommendations to the parties this ____ day of August 2002 in Portage County, Ohio.

A handwritten signature in black ink, appearing to read "Robert G. Stein". The signature is written in a cursive style with a large, sweeping initial "R".

Robert G. Stein, Fact-finder