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Before Louis V. Imundo, Jr., Fact-Finder

STATE EMPLOYMENT
RELATIONS BOARD

In the matter of arbitration between

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THE CITY OF CELINA

and the

CELINA PROFESSIONAL FIREFIGHTERS, IAFF, LOCAL 2603

SERB Case No. 2001 – MED-10-1021

This matter was heard before Louis V. Imundo, Jr., Fact-Finder, in Celina, Ohio on December 17, 2001.

1.0 Introduction

1.1 Appearing For The City

- Donald J. Binkley, Consultant & Regional Manager, Clemans-Nelson & Associates, Inc.
- Michael J. Sovinski, Safety Service Director
- Doug Kuhn, Fire Chief
- Danielle A. Good, Consultant, Clemans-Nelson & Associates, Inc.

1.2 Appearing For The Union

- Brian Anderson, Secretary/Treasurer & Firefighter/Paramedic
- Bob Schulte, President & Firefighter
- Robert Schott, Jr., Vice President & Firefighter/EMS
- Joe Osterholt, Firefighter/Paramedic
- Roy Hollenbacher, Vice President Ohio Association of Professional Firefighters

2.0 Unresolved Issue

When the current Agreement was negotiated the Parties agreed to change the shift change time for shifts to 8:00 a.m. effective January 1, 2001, on a trial basis. For as far back as anyone could remember the shift change time was 6:00 p.m. After the trial period ended the firefighters decided that they did not like the change and wanted to return to the 6:00 p.m. starting time. Management wanted to stay with the new time. The Parties attempted to resolve, albeit unsuccessfully, this issue through mediation.

The relevant language in the Agreement reads as follows:

LETTER OF UNDERSTANDING

"The undersigned parties agree to change the starting times for shifts to 8:00 a.m., effective January 1, 2001.

If the parties are unable to agree during this trial period to leave the shift change at 8:00 a.m., effective January 1, 2001.

If the parties are unable to agree during this trial period to leave the shift change at 8:00 a.m., the parties agree to reopen negotiations on Section 29.1, per O.R.C. 4117.14 with the fact-finder's report due no later than January 15, 2002.

The shift change will remain at 8:00 a.m. unless: (1) the Employer decides to change it; (2) the fact-finder's report is accepted by both parties and such award includes a change (per O.R.C. 4117.14(C); or (3) the conciliator orders such changes per O.R.C. 4117.14(g)."

3.0 Management's Position

Management's reasons for wanting to continue with the 8:00 a.m. starting time is best explained by the following which the City gave to the Union during the negotiations:

"The goals of having firefighters report to work in the a.m. are very simple – a safer, more efficient department.

Safety for our personnel and the citizens we serve. Having personnel operate emergency vehicles, administer medications, and function at emergencies places both the employee and victim at risk. – Have personnel report to work rested in the am.

More productivity – Have personnel report to duty when the work duty part of the shift starts. Start the shift with a rested crew with priority on our job.

Run volume – We have diversified our services and more than doubled our runs in the last twenty-five years. Many calls are through the night. Release sleep deprived personnel and bring in a rested crew.

Secondary employment – Have rested personnel report to duty.

Personnel sleeping over – With an a.m. start personnel may sleep over on their own time."

The following is a document that Management prepared to support their position:

“Safety is one of the primary objectives for the change in shift start time. It makes sense that after a ‘short’ night of very little sleep (due to runs through the night) that an individual could now go home to rest instead of staying at work with very little sleep.

Having the shift coming on duty well rested is in the best interest of the employee as well as the citizens we serve. Having employees operate emergency vehicles, administer medications, and function at emergencies places both the employee and victim at risk. The liability alone should be enough to make a change.

Change in family lifestyle. While this may be difficult for some, it really does not outweigh the safety issue. A lifestyle change is much more desirable than a change in lifestyle after someone has been injured (loss of income, permanently disabling injuries, etc.)

Secondary employment. As with many departments, many of our firemen that have a second job, arrive at the fire department at the end of their workday. By having a morning start time we will have rested employees coming to work, not employees come to work to rest.

More productivity. The work duty part of the shift will be the first eight hours. Having employees report at the beginning of the day when the workday starts will be more productive

Number of runs. We have more than doubled our runs in the last 25 years. Many of these calls are through the night. Sending these employees home to rest and bringing in a rested crew each morning will make us a better department.

If personnel sleep over at work, it will be on their own time. I have made calls and contacted departments in many areas of the state and cannot find a fire department that now changes in the evening. I feel the reason for this is the morning start time is a safer and more efficient time to have employees report to work.”

4.0 Union's Position

The Union's position is best explained by the following that was presented at the Hearing:

“The firefighters in Celina spend a great deal of time away from their families. Despite this fact, with a shift change at 6:00 p.m., we are able to see our families at least part of

the day, including special days like holidays, anniversaries, and birthdays. With a shift change at 8:00 a.m., we completely miss one out of every three days with our families.

The firefighters at the Celina Fire Department not only work 2,912 hours per year (an average of 56 hr./wk), but as you can see from the facts above, we are also subject to a large amount of call backs due to a high number of runs and a relatively low staffing level. This large amount of call backs in addition to our 24 hour shifts every third day creates a vast amount of time that we spend away from our families. By having a 6:00 p.m. shift change, this allows each firefighter to have at least part of every day at home with their family. This fact is also beneficial in the case of holidays, family birthdays, and anniversaries. With a 6:00 p.m. shift change, even if you are scheduled to work, you can be home for at least part of these special days, be it throughout the day or in the evening.

However, with an 8:00 a.m. shift change, each firefighter misses one out of every three days with their families. In this case, the days that we are scheduled to work, we are only home from 12:00 a.m. to 8:00 a.m., which is when our wives and children are sleeping. This fact is worsened for the firefighters with school aged children. When a firefighter goes into work, he hasn't seen his children since they went to bed the previous night. When this same firefighter gets home from work the following morning, his children are already on their way to school, and they don't get home till approximately 4:00 p.m. This adds up to approximately 40 or more hours with little or no interaction with our children.

The large volume of call backs of Celina Fire Department personnel must also be considered at this point. As shown above by the overtime/call back chart (Attachment 7) this is also a great amount of time spent away from our families. Call backs of Celina Fire Department personnel are not mandatory, and we are not trying to insinuate that they are, but if one firefighter is unavailable for call back, this just means that another firefighter, the next one in line, will get called back. As stated before, our SOP's state that our station must be manned with four personnel at all times, and it is our responsibility to the citizens that we protect to keep the station manned, but considering these facts presented above, we feel that in return we should be allowed to start our shifts at 6 p.m. because this is a time that allows us to see our wives and children every day, and this is a time that we have built our families lives and schedules around.

With the erosion of the family unit in today's society, we feel that this is of the utmost importance to us, our wives, and our children.

The Chief and the City of Celina wanted to change our start time from 6:00 p.m. to 8:00 a.m., but they never provided us with a reason for the change.

As we stated before, when the Celina Fire Department became a full time department the shift change was at 6:00 p.m. When Chief Kuhn and the City decided to change our start time, we had no input on this issue, even though we were the only ones being affected by this change.

When we were first told that we would be changing shifts at 8:00 a.m., we asked the Chief if there was any problem that he was trying to correct with the shift change. We were told that everything was fine and that the Chief had no complaints pertaining to the operation of the fire department or the way we were performing our jobs.

During this time and throughout negotiations, the Union inquired as to why the City wanted an 8:00 a.m. shift change. Despite the drastic effect this change would impose on our family lives, the City was never able to provide us with a reason.

The Chief composed a list of objectives by which the effectiveness of the 8:00 a.m. shift change could be measured against the effectiveness of the 6:00 p.m. shift change (see Attachment 3). It is our feeling that based on these objectives, no change in effectiveness can be shown compared to when we changed shifts at 6:00 p.m.

The following is a breakdown of this list of objectives and our arguments showing how this has failed to show any change in effectiveness.”

In response to Management’s arguments the Union offered the following:

Paragraph #1

“The goals of having firefighters report to work in the am are very simple – a safer, more efficient department.”

“We contend that this is always a goal of the fire department, no matter what the start time. The Chief, in this case, neglected to provide any way to measure this objective versus when we changed shifts at 6:00 p.m. It is our feeling that the Celina Fire Department has always been a safe department. This fact is evidenced by our low amount of injuries and workers compensation claims. It is also the Union’s feeling that no effect has been made on the efficiency of the department by changing shifts at 8:00 a.m. The Chief failed to provide any way to measure the efficiency of the department, but as we stated before, we have been told by the Chief that there are no complaints pertaining to the operation of the department or the performance of our duties. This is a fact that has held true, both with a 6:00 p.m. shift change and an 8:00 a.m. shift change.

Furthermore, the fire department is a community service. It is not like most other jobs where the goal is maximum production. The goal of our job is to provide professional services, be it fire or EMS related, at any time of the day or night. We feel that the

efficiency of our department lies in the runs and the standard of service provided on these runs. We have not had any complaints with our services, so we feel that our efficiency has maintained a constant level throughout both shift change times.”

Paragraph #1

“Safety for our personnel and the citizens we serve. Having personnel operate emergency vehicles, administer medications, and function at emergencies places both the employee and victim at risk. – Have personnel report to work rested in the am.”

“We contend that the Celina Fire Department has never had a serious injury accident involving a fire department vehicle, so in this case, what is the Chief trying to improve upon? We also feel that in the case of administering medications and our functions at emergencies, no deficiencies can be shown in the case of a 6:00 p.m. shift change, so again, what is the Chief trying to improve upon? As we stated before, during the time when we were changing shifts at 6:00 p.m., the Chief told the Union that he had no complaints pertaining to the operation of the department or the performance of our duties.

In the case of ‘Having personnel report to work rested in the am’, we feel that the 8:00 a.m. shift change has not met this objective as well as the 6:00 p.m. shift change did. This is due to the fact that with our high number of call backs, when a firefighter is called back through the night before he is to report for work, he then is not well rested when he reports to work at 8:00 a.m. In this same case with a 6:00 p.m. start time, this same firefighter would have until 6:00 p.m. to report to work, which would allow this firefighter time to become rested before reporting to work.

In addition to this, we contend that based on the Celina Fire Department’s number of runs and call backs, no one can guarantee that any one person will be rested at any given time. Our job at the fire department is the runs and these runs and call backs come at any time of the day and night. They don’t just begin at 8:00 a.m. every day. Our runs come 24 hours a day and no one can predict when they will come, so no matter if we start our shift at 6:00 p.m. or 8:00 a.m., at some point when a run comes, any given firefighter might be rested or at some point they might not be rested. This is just part of the job. This is not determined by our start time.”

Paragraph #3

“More productivity – Have personnel report to when the work duty part of the shift starts. Start the shift with a rested crew with priority on our job.”

“How do you measure productivity at a fire department? Our job at the Celina Fire Department is the runs. We handle all of our runs appropriately, and we have not had

any public or departmental complaints as to how we have handled these runs. Productivity is a term used when dealing with factories, not fire departments. Factories are meant to be productive and make a profit. Fire departments are not present to make a profit. They are present to provide a service to the community.

Our job is the runs. They affect us at any time, be it while we are on duty or being called back while we are off duty. This is the service we provide, and no matter if we come in to work at 6:00 p.m. or 8:00 a.m., we come in to work ready to do our job and serve the citizens we protect. Our job is a 24 hour per day, 7 days per week service, not an 8:00 a.m. to 5:00 p.m., Monday through Friday service.”

Paragraph #4

“Run volume – We have diversified our services and more than doubled our runs in the last twenty-five years. Many calls are through the night. Release sleep deprived personnel and bring in a rested crew.”

“The doubling of runs in the last twenty-five years also means twice the number of call backs for off duty personnel. This leads to less time with our families. As we stated before, call backs are not mandatory, but it is also our job to keep the city protected. Someone has to keep the station manned with four personnel 24 hours a day.

As for the Chief’s statement that ‘Many calls are through the night’, actually the least amount of our calls occur through the night (see Attachment 8).

As for the Chief’s last sentence, ‘Release sleep deprived personnel and bring in a rested crew’, no one can guarantee that a rested crew will be coming into work. This is totally dependent on the number of runs on any given day, when these runs occur, the availability of personnel for call back, and the number of personnel being called back. This is not dependent on whether the shift change occurs at 6:00 p.m. or 8:00 a.m.”

Paragraph #5

“Secondary employment – have rested personnel report to duty.”

“First of all, only five out of fifteen firefighters that work the 24 hour shifts have a part time job that they work in on a regular basis. Out of these five firefighters, four of them are self employed and set their own work hours. No matter what time the shift starts, these firefighters set their part time work schedules around their fire department work schedule, and they report to the fire department ready for work accordingly.

Secondly, the Chief has been specifically asked by the Union if part time employment was a problem, and the Chief has fully denied that these part time jobs were causing a

problem. If, however, this is not the case and the Chief does not have a problem with the part time employment, then the Union would ask the question, 'Why not take care of any problems dealing with part time employment on a case by case basis, rather than punishing the entire department, the majority of which do not have part time employment, with the time change?'"

Paragraph #6

"Personnel sleeping over – with an am start personnel may sleep over on their own time."

"The Chief states that an objective of the 8:00 a.m. shift change is that fire department 'personnel may sleep over on their own time.' The Chief has, however, contradicted himself. This is evidenced by Attachment 9, which is part of our new SOP's, that were drafted by the Chief in 2001. This section of our SOP's states that 'Personnel shall arise at 0800 hours.' Because of this fact, the Union feels that this last statement cannot be used as an objective to measure the effectiveness of the 8:00 a.m. shift change."

5.0 Recommendation

The record establishes that the 6:00 p.m. shift change time for Celina's firefighters is atypical when compared to firefighters in Ohio at large. As evidenced by the testimony of the Union's witnesses and supporting documentary information the firefighters perceive the 6:00 p.m. shift change time as being an important benefit primarily because it enables them to have more quality time with their families. There is also some evidence to indicate that some economic benefit is derived from the 6:00 p.m. shift change time owing to working spouses, childcare, and second jobs. The record establishes that historically the 6:00 p.m. shift change time caused no problems with respect to the Department being able to effectively and efficiently serve the Celina and surrounding areas collective needs.

The Fact-Finder recognizes that as communities change fire departments must periodically review their operations to see if change is needed to continue effectively and efficiently serving the needs of all whom they serve.

In the Fact-Finders' opinion the City, specifically Chief Kuhn, has solid reasons for wanting to stay with the 8:00 a.m. shift change time. No one could rationally take issue with his goals of wanting a safer, more efficient, and more productive Department. However, as evidenced by what is in the record the change has not been beneficial to the firefighters. This is not to say that in order to be validated all change must be

embraced by those who are impacted by it. Change by its very nature is disruptive to the status quo and it more likely than unlikely that it will not always be welcomed.

The Fact-Finder notes the absence of anything in the record to show that there was a compelling need to change the shift change time. Chief Kuhn suggested that there may have been some problems with some firefighters not always being fully alert while at work because of either second jobs, or having had to go out on calls throughout the night. The Fact-Finder notes the absence of anything in the record by way of empirical data to support this claim. The Fact-Finder notes the absence of anything in the record to show that as a result of the change in shift change time that the Fire Department is any safer, efficient, or more productive. As stated, the record does show that the change has not been well received by the firefighters.

In the Fact-Finder's opinion, before such a change should become permanent the City either has to offer compelling evidence to show that problems exist and that the shift change time will to a long way to correcting them, or offer same to prove that such a change will increase safety, efficiency, and productivity. In view of the fact that the City proffered no substantive credible evidence to support their position and the Union offered substantive credible evidence to support their position the Fact-Finder recommends that the shift change time return to 6:00 p.m.

December 28, 2001
Date

Louis V. Imundo, Jr.
Louis V. Imundo, Jr.
Fact-Finder