

STATE EMPLOYMENT
RELATIONS BOARD

IN THE MATTER OF FACT-FINDING

2002 MAY 13 A 9 23

BETWEEN

MEDINA COUNTY

AND

TEAMSTERS LOCAL 293 (JFS Unit)

BEFORE: Robert G. Stein

SERB CASE NO(s): 01 MED 10-1038

PRINCIPAL ADVOCATE FOR THE UNION:

Basil W. Mangano, Esq.
MASTERS & ASSOCIATES
1300 Eaton Center
1111 Superior Ave.
Cleveland OH 44114

and

PRINCIPAL ADVOCATE FOR THE EMPLOYER:

James A. Budzik, Esq.
JOHNSON & ANGELO
1700 North Point Tower
1001 Lakeside Ave.
Cleveland OH 44114

INTRODUCTION

The Employer is Medina County, Ohio, which is located in northern Ohio. The Agency that is the subject of this Fact-finding is the Job and Family Service Unit ("JFS"). In contrast to the CSEA, the JFS is funded by the Medina County (hereinafter referred to as "Employer" or "County"). Teamster Local 293, an affiliate of the Teamster's International Union, represents the bargaining unit. The bargaining unit consists of fifty-seven (57) employees in the following classifications: Unit Support Workers, Clerical Specialist, Account Clerk, Mail Clerk, Eligibility Specialists 1 and 2, Eligibility Case Control Reviewer, Investigators, SS Worker, SS Worker 1 and 2, Telephone Operator.

In this report the term "EPS" refers to Employer's Position Statement and the term "UPS" refers to Union's Position Statement. The position of

each party on all impasse issues shall not be restated but will be referenced by these terms.

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 somewhat 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:

ISSUE 1 Article 28 Salary Schedule

Union's position

SEE UPS.

Employer's position

SEE EPS.

Discussion

The Union is proposing inequity adjustments in addition to an across the Board wage increase. The Union is seeking to add two (2) step increases (3% each) in the first year of the Collective Bargaining Agreement ("CBA") in addition to a 3% wage increase. The parties are in agreement on the amount of the across-the-board wage increase for all three years of the Agreement. The Employer also proposed a \$325.00 annual payment each year of the CBA that would not be rolled into wages or in the calculation of overtime. It is recognized that a lump sum increase is not the equal to a wage increase. It is not permanent and does not have any roll-up benefits.

Union Exhibit 4 provides comparison data between the wages of the various classifications in the JFS unit and other external comparables. In reviewing this data it appears that the bargaining unit wages (at the

starting and top wage rates) are competitive with the seven (7) comparable counties researched by the Union. Although the bargaining unit has fewer steps than some of these comparable jurisdictions (Ux 5) employees get to a higher pay rate sooner than employees in Richland, Portage, and Clermont counties. There is insufficient evidence to compel a change in the amount of salary schedule steps at this point in time.

According to the Department of Labor's most recent report (April 25, 2002), wages in the first quarter of 2002 have returned to the level where they were during the first quarter of 1999. During the last two quarters (September 2001 to March 2002) wage increases for State and Local governments increased 0.6% and 0.7% respectfully. This represents a 1.3% increase in compensation for the past six (6) months. The most recent Consumer Price Index (CPI-U) for the Cleveland-Akron area, released from the U.S. DOL April 16, 2002, demonstrates that over the past twelve (12) months consumer prices were up 0.8 percent, well below the previous 12-month increase of 3.2%. While it is always a risk that inflation may increase at a more rapid rate, it has remained at or below 3%, largely due to Federal Reserve fiscal policy. Based upon this data, the Employer's wage offer appears to be reasonable.

The cost associated with the Employer's proposal that goes beyond the annual 3% across-the-board increases amounts to \$975.00 bonus for each per person in the bargaining unit over the next three (3) years.

What is not apparent is what will happen to this lump sum payment in the next labor contract, if the health care costs remain the same or go higher.

The concept of providing the same wage increases to all bargaining units (wage increase equity) is a critical factor for any employer. In the instant matter, the Employer asserts that keeping wage increases the same for all bargaining units helps to maintain labor peace. However, during these negotiations another significant factor is the post "9-11" economy. It is not conducive to funding inequity increases and competitive cost of living increases. Of course, depending upon where you live in the country will determine how you are faring economically. For instance, in the first quarter of 2002, the economy grew at a roaring rate of 5.8% (Wall Street Journal, April 29, 2002). However, an economic recovery, if at hand, may take some time to impact Ohio's economy.

The recession, although labeled "mild" has strongly impacted manufacturing. Manufacturing has recently had a great deal of excess capacity and is currently only at 73% total capacity. Unfortunately, a significant portion of the economy of northern Ohio is dependent upon manufacturing, particularly as it relates to the auto industry. April auto sales were surprising strong and that was one bit of good news. However, the state of Ohio has recently been through two rounds of budget cuts and the Republican controlled legislature is seriously considering

increasing taxes. If an economic recovery is in the offing for Ohio, it has yet to make itself known in any demonstrable way.

Recommendation

1. January 1, 2002: a 3% increase and a \$325.00 lump sum payment
2. January 1, 2003: a 3% increase and a \$325.00 lump sum payment
3. January 1, 2004: a 3% increase and a \$325.00 lump sum payment

ISSUE 2 Article 27 Health Care

Union's position

SEE UPS.

Employer's position

SEE EPS.

Discussion

The Employer's proposal is not out of line with what is occurring with the rising costs of health care. Employees are being asked to absorb a portion of premium increases in the form of higher premium payments and higher deductibles, especially for prescription drugs. Prescription drug costs are rising much faster than are premiums for health care

coverage and appear to be the most problematic. And as stated earlier, the Employer emphasized it was providing the \$325.00 bonus each year, in part to offset the increased costs of health care coverage. This will provide some relief for the next contract period.

The Union raised the additional question regarding health care coverage for oral contraceptives. It argues that the EEOC has found that employers who do not provide for insurance coverage for non-medically necessary contraceptives are discriminating against employees. The EEOC ruling does not cover employees in Ohio at this time. Although this may occur in the future, it does not mandate such coverage in Ohio. This issue involves values and beliefs that go beyond the cost of providing said benefits. There is little comparable data available in Ohio to support this change at this time. It is a matter that is best left to the courts to decide.

Recommendation

As proposed by the Employer. See EPS. Co-pays for prescription drugs shall be increased to \$6.00 generic/\$12 for name brand, with the same levels applying to mail order. The employee contribution toward family premiums shall be increased to \$50.00 per month.

ISSUE 3 Article 26 Overtime Pay

Union's position

SEE UPS.

Employer's position

SEE EPS.

Discussion

Currently, holidays, vacation time, and compensatory time are counted for purposes of determining when an employee is eligible for overtime- pay. The Union is proposing specific language that would add sick time to the calculation of "hours worked" for the purpose of overtime. The Union contends that although sick leave is not listed in Article 26, it has been the practice of the Agency to include sick leave in the calculation of overtime. The Employer indicated that it included sick leave in the calculation in error and it was stopped in August of 2001. There was no evidence presented that demonstrates it was ever negotiated.

The Employer argues that all the collective bargaining agreements under the jurisdiction of the Medina County Commissioners exclude sick leave from the calculation of overtime. The one internal comparable that includes sick leave is the County engineer's bargaining unit.

Even though sick leave has never been formally bargained into the CBA, for a period of several years the Employer has included it in the calculation of hours worked. Even if it could be demonstrated that this past practice has risen to a term of the Agreement, the Total Agreement clause contained in Article 38 provides the Employer with sole discretion

to discontinue any previous or present past practices providing advance notification is given to the Union. It appears advanced notice was provided to the Union in August of 2001.

Counting sick leave as hours worked is also not part of any other internal comparables, save one. It also appears that the majority of public sector employers do not provide this benefit. For example, three of the external county comparables provided by the Union (Clermont, Huron, and Portage counties) do not include sick leave in the calculation of hours worked. This is also the case in nearby Stark and Richland counties.

Recommendation

Sick leave shall not count as hours worked.

Maintain current language

ISSUE 4 Article 22 Holidays/Personal Days

Union's position

SEE UPS.

Employer's position

SEE EPS.

Discussion

I find the comparable data presented at the hearing justifies the codification of the second day of personal leave being guaranteed to employees. However, an expansion of personal leave to three (3) days is not supported by the data provided at the hearing. This benefit should appear in the CBA under Article 22, where there already exists a reference to one day of personal leave provided to all employees who have completed probation.

Recommendation

Modify Section 22.05 as follows:

22.05 Personal Leave: Upon successful completion of the probationary period, each employee shall receive one (1) personal leave day which must be taken in the calendar year or forfeited **and one (1)**

22.06 personal leave day to be used in conjunction with the Thanksgiving, Christmas, or New Years holiday.

ISSUE 5 Article 28.07, 28.09 Beeper Pay/Licensure

Union's position

SEE UPS.

Employer's position

SEE EPS.

Discussion

The Union is seeking to increase the compensation to employees who are required to carry a beeper on weekdays and weekends. This duty is rotated among certain employees in the bargaining unit. The Employer states that employees already receive one (1) personal leave day per year and one (1) additional day to be used in conjunction with Thanksgiving, Christmas or New Year's Day. This second personal leave day has been at the discretion of the County, but the Employer is willing to make it a second guaranteed day off. The Employer contends this approach would keep the JFS bargaining unit in line with other county bargaining units.

Beeper pay in counties that have this benefit such as Portage and Clermont counties is higher. The weekday rates in these counties are approximately the same as the weekend rates in Medina County. The comparable data supplied by the Union supports a reasonable upward adjustment in this pay (Ux 5) to remain competitive with jurisdictions providing this benefit. During the fact-finding hearing the parties by mutual agreement also raised the issue of reimbursement under Section 28.09 of the Agreement. There was agreement that Section 28.09 was

supposed to cover the full cost of licensure renewal, but that the language did not anticipate any cost increase occurring during the next contract period.

Recommendation

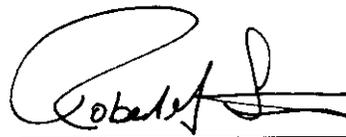
28.07 Any employee who is required to carry a "beeper" for call-in purposes, shall receive **eighteen (\$18) (2002), (\$19) (2003), (\$20) (2004) per weekday or twenty-seven (\$27) (2002), (\$28) (2003), (\$29) (2004)** per weekend day or holiday for carrying such "beeper." Overtime will be paid to the first minute after the accumulation of the first fifteen (15) minutes of phone calls during any twenty-four (24) hour period. Employees who are required to carry a "beeper" as a daily requirement of the position are excluded from this article.

28.08 The Employer shall reimburse all LSW's for their bi-annual license up to a maximum of **seventy-five dollars (\$75)**.

TENTATIVE AGREEMENTS

All other issues tentatively agreed to prior to fact-finding are considered to be part of this report and are recommended to the parties.

The Fact-finder respectfully submits the above recommendations to the parties this first (9th) day of May, 2002 in Portage County, Ohio.

A handwritten signature in black ink, appearing to read "Robert G. Stein", written over a horizontal line.

Robert G. Stein, Fact-finder