

STATE OF OHIO

2004 FEB 19 A 10: 32

STATE EMPLOYMENT RELATIONS BOARD

In the matter of	*	Case No. 03-MED-03-0290
	*	
Fact-finding between:	*	
	*	
Hancock County Board of Mental	*	Fact-finder:
Retardation & Developmental Disabilities	*	
	*	Martin R. Fitts
and	*	
	*	
Teamsters Local 20	*	February 17, 2004
	*	
	*	

REPORT AND RECOMMENDATIONS OF THE FACT-FINDER

APPEARANCES

For the Hancock County Board of MR & DD (the Employer):

Steven Spirn, Labor Relations Consultant
 Bryan Miller, Superintendent
 Robyn Dilley, Business Manager
 Tammy Bonifas, Director of Residential

For Teamsters Local 20 (the Union):

Mark Sobczak, Vice President
 Wanda Jane Roose, Union representative

PRELIMINARY COMMENTS

The bargaining unit consists of all full-time and part-time Therapeutic Program Workers, Cooks, and Kitchen Help employed by Hancock County Board of MR & DD. There are approximately 35 employees in the bargaining unit. The State Employment Relations Board appointed the undersigned as Fact-finder in this dispute on May 9, 2003. The bargaining unit rejected a tentative agreement on November 12, 2003. The fact-finding hearing was held on January 20, 2004 at the Employer's facilities in Findlay, Ohio. Both parties attended the hearing, presented written positions, and elaborated upon their respective positions. There were five issues at impasse: Wages; Longevity; Insurance; Holidays; and Retroactivity. No further mediation was attempted at the hearing, and thus five issues were submitted for Fact-finding.

In rendering the recommendations in this Fact-finding Report, the Fact-finder has given full consideration to all testimony and exhibits presented by the parties. In compliance with Ohio Revised Code, Section 4117.14 (G) (7) and Ohio Administrative Code Rule 4117-9-05 (J), the Fact-Finder considered the following criteria in making the findings and recommendations contained in this Report:

1. Past collectively bargained agreements, if any, between the parties;
2. Comparison of 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, and 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. Any stipulations of the parties; and
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.

All references by the Fact-finder in this report to the Employer's proposal and the Union's proposal are references to their respective final proposals as presented in writing to the Fact-finder at the January 20, 2004 hearing.

ISSUES AND RECOMMENDATIONS

Issue: Wages

Positions of the Parties

The Employer proposes an across the board 2.5% increase in the first year, a 2.5% increase in the second year, and a 2.5% increase in the third year, except for employees whose hourly wage rate is at or above \$12.00. Those employees would be red-circled.

The Union position is an across the board 6% increase for all employees in the bargaining unit in each of the three years.

Findings and Recommendation

No meaningful comparables for Therapeutic Program Workers (who make up the vast majority of this bargaining unit) exist to use for comparison. The Employer's contracts with other collective bargaining units are reasonable internal comparables to use as a guide as to what is appropriate and fair. Those internal comparables show that 2.5% wage increases for 2004 have been the norm.

It was clear that the Employer and the Union had many discussions during the course of these negotiations on revamping the method used to determine pay. However, it is also clear that the parties remain far apart as to any changes. In light of that, it is difficult for the Fact-finder to conclude that recommending a part of that, the red-circling of the wages for those over \$12, would be prudent and wise at this juncture. Such major change is best left to the parties in the greater context of revamping the entire compensation system, if they so desire. A piecemeal approach achieved in the Fact-finding process would seem to be a hindrance to meaningful change in the future.

The Union argued that this bargaining unit is low paid, and that the larger increases it proposes are necessary to bring the entire wage scale up. Union Exhibit 7 demonstrated that the bulk of the employees in the bargaining unit have base wage rates of less than \$10/hour. The Employer was convincing in its wage argument as to an appropriate percentage increase for the first year of the agreement, as the internal comparables of the other bargaining agreements of the Employer are quite compelling. However, those comparables reflect only the first year of this contract, and do not project forward for years two and three. In light of the Union's evidence relative to the base wage rates of the bulk of the bargaining unit, the Fact-finder believes a slightly higher wage increase is justified in years two and three.

Therefore, the Fact-finder recommends a 2.5% across the board increase for all employees of the bargaining unit in the first year, a 3.0% across the board increase for all employees of the bargaining unit in the second year; and a 3.0% across the board increase for all employees of the bargaining unit in the third year.

Issue: Longevity

Positions of the Parties

The Union proposes amending the agreement to include provisions for the payment of longevity, as follows:

After 5 years	1.5%
After 10 years	2.0%
After 15 years	2.5%
After 20 years	3.0%

The Employer proposed the retention of current language, which does not provide for longevity.

Findings and Recommendation

The current agreement does not provide for longevity. The Union argued that longevity is needed to reward the employees for years of service, and compensate them for the on-the-job training they provide for new employees.

The Employer argued that it had proposed a merit-based, experienced-based compensation plan that would have rewarded longer-serving, experienced employees, but that this approach was rejected as part of the tentative agreement. It noted that its other bargaining units contracts do not include longevity.

The Fact-finder finds no compelling reason to incorporate longevity into this agreement. As noted above, major change in the compensation system is best left to the parties, if they desire, in a comprehensive approach rather than a piecemeal approach. Therefore, the Fact-finder recommends the Employer's position for the retention of the current language that provides for no longevity payments.

Issue: Insurance

Positions of the Parties

The parties stipulated that they have agreed upon a re-opener for health insurance in second and third years of the new agreement, and that only the first year is in dispute.

The Employer proposes a change in the language of Article 35 of the agreement to language identical to that covering other union and non-union employees of the

Employer. Employer Exhibit 6 contained the language that had been tentatively agreed to in the Employer's negotiations with the OAPSE/AFSCME bargaining unit, and which is identical to the procedure followed for the non-bargaining unit employees.

The Union proposed a provision calling for the Employer and the employees to split the cost of the current health care plan on a 90%/10% basis, except for those employees hired prior to 1/1/200 who would continue to receive Plan B – Single coverage paid 100% by the Employer.

Findings and Recommendation

There is no question that rising health insurance costs have created a great burden for both employers and employees in both the private and public sectors. There are no easy fixes, and certainly no magic solutions that can be recommended by the Fact-finder that will satisfy both parties.

However, the Employer's proposal would bring parity between this bargaining unit and other union and non-union employees of the employer, and appears fair and reasonable to the Fact-finder. Again, the internal comparable of both the non-union employees and those covered by the OAPSE/AFSCME contract offer compelling evidence as to the appropriate recommendation.

Therefore, the Fact-finder recommends that Article 35 be amended to follow the Employer's proposal outlined in Employer Exhibit 6 at the hearing.

Issue: Holidays

Positions of the Parties

The Union proposes the addition of two program closing days in Article 26 of the current contract. It argued that this would provide parity with the agreement between the Employer and OAPSE/AFSCME Local 4 in the workshop.

The Employer had no position on this issue.

Findings and Recommendation

The argument for parity in the contract language for this bargaining unit and the OAPSE/AFSCME Local 4 contract is compelling. The Fact-finder recommends adding two program closing days to the current provisions of Article 26, Section 1. Therefore, the Fact-finder recommends that the language in Article 26, Section 1 relative to Closing Days be amended by replacing the sentence calling for “1st Sixteen (16) hours worked between Christmas Day and New Year’s Day” with the following:

1st Thirty-two (32) hours worked between Christmas Day and New Year’s Day

Issue: Retroactivity

Positions of the Parties

The Union contended that the, as the parties had entered into a memorandum of agreement on May 29, 2003 (Joint Exhibit 2) that stated “Further, any wage settlements shall be retroactive to June 9, 2003” that any wage increase recommended by the Fact-finder should be retroactive to that date.

The Employer argued that it believed it was obligated to pay retroactivity only until November 12, 2003, the date of the rejection of the tentative agreement by the bargaining unit.

Findings and Recommendation

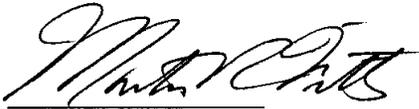
The parties clearly articulated in their memorandum of agreement (Joint Exhibit 2) their desire to have any wage settlement retroactive to June 9, 2003. There was no expiration date given for that agreement, although the document did contain an expiration date for the extension of the agreement. It can be reasonably concluded that the intent of the

parties was to make any wage settlement retroactive, regardless of the date at which negotiations were concluded. The parties continued to negotiate following the rejection of the tentative agreement, and those negotiations have led to the instant Fact-finding process. Viewing this as a single, though admittedly lengthy, negotiation process, the Fact-finder finds that retroactivity of the recommended wage settlement to June 9, 2003 is reasonable, fair, and true to the parties original intent.

Therefore, the Fact-finder recommends that the wage settlement recommended above be retroactive to June 9, 2003.

Additional recommendations of the Fact-finder

The Fact-finder recommends all the agreements previously reached on other issues by the parties during these negotiations as well.



Martin R. Fitts
Fact-finder
February 17, 2004