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STATE EMPLOYMENT
RELATIONS BOARD
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STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the matter of	*	04-MED-08-0785
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Fact-finding between:	*	
	*	
Lucas Metropolitan Housing Authority	*	Fact-finder
	*	Martin R. Fitts
	*	
and	*	
	*	
AFSCME Ohio Council 8 and	*	March 21, 2005
Local 2916	*	
	*	

REPORT AND RECOMMENDATIONS OF THE FACT-FINDER

APPEARANCES

For the Lucas Metropolitan Housing Authority (the Employer):

- Donald J. Binkley, Consultant
- Linnie B. Willis, Deputy Director
- Lisa E. Dubose, Director of Human Resources
- Keith A. LaVrar, Director of Maintenance
- Helen Kiplen, Finance Director

For AFSCME Ohio Council 8 (the Union):

- Cheryl Tyler-Folsom, Staff Representative
- Makiah Atuma, Local President
- Jennifer Todd-Warfield, Local Vice President
- Gail Wilson, Local Recording Secretary
- Anderson A. Thomas, Local Board Member

PRELIMINARY COMMENTS

The bargaining unit consists of all employees in the classifications included in Article 2, Section 2.1 of the collective bargaining agreement employed by the Lucas Metropolitan Housing Authority. There are approximately 121 employees in the bargaining unit. The State Employment Relations Board (SERB) appointed the undersigned as Fact-finder in this dispute on January 21, 2005. The Fact-finder conducted a mediation session on February 10, 2005. During negotiations the parties reached tentative agreements on numerous issues. The fact-finding hearing was held on March 3, 2005 at the offices of the Lucas Metropolitan Housing Authority in Toledo, Ohio. Both parties attended the hearing, presented written positions, and elaborated upon their respective positions. There were five issues at impasse: Wages; Retroactivity of wage increases; Discretionary Day; Signing Bonus; and Retroactivity of insurance co-pays. Thus these 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 March 3, 2005 hearing.

ISSUES AND RECOMMENDATIONS

Issue: Appendix A – Wages (including retroactivity of increase)

Positions of the Parties

The Union proposed that Appendix A – Wages be amended to provide that all employees receive a 2.5% wage increase effective December 1, 2004, an additional 2.0% wage increase effective December 1, 2005, and an additional 2.0% wage increase effective December 1, 2006.

The Employer proposed that Appendix A – Wages be amended to provide that all employees receive a 1.0% wage increase effective upon the execution of the agreement, an additional 1.5% wage increase effective December 1, 2005, and an additional 2.0% wage increase effective December 1, 2006.

Discussion

Regarding wage increases, the Employer painted a picture of fiscal uncertainty for the coming year based upon expected funding from the federal government. It argued that the Employer's own wage proposal would still be difficult for the agency to fund, and that it has had to dip into reserves in past years to cover deficits.

The Union argued that the agency has been cited as a "high performing" housing authority, and that the bargaining unit employees should be rewarded for their contribution to that. It noted that the employees have already agreed to a number of changes in this agreement, including increases in the amount that the employees will contribute to health insurance premiums.

The Employer noted that there is a likelihood of receiving only 89% funding next year instead of the current 98%. It acknowledged that the percentages of the reimbursements are not based on previous years' budgets. Thus the actual funding percentage does not mean a budget with a corresponding percentage decrease from the previous year. Therefore it is difficult to conclude that a reasonable wage increase will cause undue budgetary problems for the Employer.

Regarding the effective date of the first-year wage increase, the Fact-finder notes that the bargaining history of the parties is that December 1st has been the effective date for wage increases, and both parties again proposed that date for increases in years two and three of the agreement. The issue of retroactivity of the first year increase is one the Employer

believes should be tied to the retroactivity of the employees' increased contribution toward health insurance premiums. The Fact-finder is persuaded that the historical use of December 1st is fair to both sides for the first year wage increase. Rather than tying the retroactivity of the health insurance premiums to this issue, the Fact-finder has tied it to the signing bonus, as outlined later in this Report.

Findings and Recommendation

Regarding wage increases, the Fact-finder does not believe that the Employer's proposal for wages is adequate. The Union's proposal for wages, however, is too generous, especially in the first year of the agreement. That being said, the employees do need to be rewarded for changes in the agreement that they have agreed to, including the increased health care contributions. The parties should both note that the issue of reward for contributions toward achieving "high performing" status will be dealt with later in this Report.

Regarding the effective date of the first-year wage increase, the Fact-finder believes that there is value in maintaining the historical date for wage increases of December 1st, and that using the effective date of December 1, 2004 for the wage increases recommended below does not overly burden the Employer, nor overly enrich the employees.

Therefore, the Fact-finder recommends that **Appendix A – Wages** be amended to read as follows:

1. *All bargaining unit employees will receive a 2% wage increase effective December 1, 2004.*
2. *All bargaining unit employees will receive a 2% wage increase effective December 1, 2005.*
3. *All bargaining unit employees will receive a 2% wage increase effective December 1, 2006.*

Issue: Appendix A – Wages (signing bonus)

Positions of the Parties

The Union proposed that Appendix A – Wages be amended to provide that employees on the payroll as of December 1, 2004 receive a \$250.00 signing/lump sum bonus.

The Employer proposed that Appendix A – Wages be amended to provide that employees on the payroll as of December 1, 2004 receive a \$200.00 signing/lump sum bonus.

Discussion

The parties have a history of providing lump-sum signing bonuses for the employees. The Employer argued at the hearing that in the past these have been intended to serve as incentives for the quick disposition of contract negotiations, something not achieved by the parties this year. However, the Fact-finder is persuaded that the bargaining history should be respected, and that the lump-sum signing bonus does provide an incentive for ratification of the agreement.

That being said, the signing bonus recommended herein is being tied by the Fact-finder to the Employer's proposal for a retroactive payment of the increased employee co-share of health insurance premiums discussed later in this Report. Taking the Employer's proposal for a \$200 signing bonus, and reducing it by \$50, effectively achieves the Employer's objective for a retroactive insurance premium payment. Therefore the appropriate amount for a lump-sum signing bonus is actually less than either the Employer or the Union proposed at the hearing. This recommendation takes into account the entirety of the recommendations contained herein and should be evaluated by the parties in that light.

Findings and Recommendation

The Fact-finder is tying the lump-sum signing bonus to the issue of a retroactive payment of the increased employee co-share of health insurance premiums discussed later in this Report.

Therefore, the Fact-finder recommends that **Appendix A – Wages** be amended to read as follows:

Note: For the first agreement year bargaining unit employees on the payroll as of December 1, 2004 will receive a One Hundred-Fifty dollar (\$150.00) lump sum signing bonus.

Issue: Article 21 – Holidays (Section 21.3 – discretionary holidays)

Positions of the Parties

The Union proposed that Section 21.3 be amended to provide for three discretionary holidays each year.

The Employer proposed that Section 21.3 remain unchanged. It currently provides for two discretionary holidays each year.

Discussion

The Union request for this increase in benefits was based in large part on the fact that the employees contribute greatly to the agency's status as a "high performing" housing authority. The Employer acknowledged the employees' contributions in this regard, but noted that LMHA receives no additional funding as a result of this. The Employer did acknowledge that adding a third discretionary holiday does not unduly burden the agency financially. These days are scattered by the employees throughout the year versus having all employees gone on a single holiday, and the resulting usage of discretionary days does not usually cause staffing shortages.

The following recommendation is directly tied by the Fact-finder to the contributions of the bargaining unit employees to the Employer's being cited as a "high performing" agency. Therefore the Fact-finder wishes to make it clear that the recommendation for the additional discretionary holiday is based upon providing a reward for the employees for their contributions towards the agency achieving "high performing" status. Should that status not be maintained, it is the expectation of the Fact-finder that the third discretionary holiday would no longer be appropriate, and the third discretionary day would properly be at issue again. To expressly state such a provision in the agreement, however, could cause difficulty if that status is unavailable to the Employer for reasons outside of its control, such as a change in federal guidelines that no longer award such status to any housing authority.

Findings and Recommendation

The Union's argument that it deserves a third discretionary holiday as a reward for its contributions toward the Employer holding "high performing" status is compelling.

Therefore, the Fact-finder recommends the Union's proposal for the amendment of Section 21.3 to provide for three discretionary holidays each year.

Issue: Article 10 – Hospitalization (retroactivity of co-pay increases)

Positions of the Parties

The Employer proposed that Article 10 be amended to provide that bargaining unit employees pay retroactively through payroll deductions the difference between their co-share payments already paid in 2005 and the new co-share amounts that were tentatively agreed to by the parties.

The Union proposed that the agreed-upon increases in employee co-pay for coverage take effect upon execution of the agreement.

Discussion

The parties reached agreement on co-pay modifications for the new agreement. In 2005 the tentative agreement is for employees to pay \$24/month for a single plan and \$64/month for a family plan. In the previous year employees paid \$18/month for a single plan and \$48/month for a family plan. The difference is \$6/month for a single plan and \$16/month for a family plan.

The Employer's proposal for retroactivity is reasonable in that the Employer had to pay for those increases effective January 1, 2005. As the duration of the previous agreement was December 1, 2004, the parties obviously had intended to conclude bargaining for this agreement prior to the January 1st change in premium costs.

Findings and Recommendation

As noted the Fact-finder finds the Employer's argument for retroactivity for the payment of the health insurance premiums to be reasonable. However, to assess through payroll deduction the difference in the payments seems to the Fact-finder to be a cumbersome method of achieving this. Rather, as stated above, the Fact-finder believes an administratively more sensible method of achieving this is through reducing the lump-sum signing bonus by \$50.00 less than proposed by the Employer. This will provide the Employer with a savings from its own proposal that will adequately compensate for the higher premium cost paid by the Employer since January 1, 2005.

Therefore, the Fact-finder recommends that Article 10, Section 10.1 of the agreement be amended to provide that Employees co-share amounts shall become effective at the execution of this agreement.

Additional recommendations of the Fact-finder

In addition to the above, the Fact-finder has reviewed all other tentative agreements reached by the parties during their negotiations, including those reached in mediation conducted by this Fact-finder.

The Fact-finder recommends all those tentative agreements as well.

A handwritten signature in black ink, appearing to read "Martin R. Fitts", written in a cursive style.

Martin R. Fitts
Fact-finder
March 21, 2005