

IN THE MATTER OF FACT FINDING

STATE EMPLOYMENT
RELATIONS BOARD

BETWEEN

2007 JUN 29 P 1:12

TEAMSTERS LOCAL 407

AND

CUYAHOGA COUNTY DEPARTMENT OF HUMAN SERVICES

Case # 06-MED-04-0464

MAD

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INTRODUCTION

The issues in dispute before the fact-finder involve requirements surrounding the **paid lunch hour** (Article 8, Hours of Work), **holiday pay** (Article 15, Holiday Pay), **wages** (Article 31 Wages), **health insurance** (Article 32, Health Insurance), **personal days** (Article 44, Personal Days), and **duration** of the Agreement (Article 46, Duration). The bargaining unit, represented by Teamsters Local 407, consists of approximately twenty-six (26) employees of the Cuyahoga County Employment and Family Services Investigations Unit who are employed as Investigators (22) and Senior Clerks (4) (see Parties' submissions). It is one of twenty (20) bargaining units in Cuyahoga County which are represented by several unions. Cuyahoga County is the largest county in Ohio (2000 U.S. Census). The International Brotherhood of Teamsters Union is one of the largest unions in the United States and Local 407, with which it is affiliated, has a long history of representing private and public sector employees in northeast Ohio. The Collective Bargaining Agreement expired June 30, 2006.

Negotiations were delayed during this round of bargaining due to a decertification petition being submitted during the window period allowable under O.R. C. 4117. SERB subsequently conducted an election and as a result Local 407 was retained as the certified bargaining representative.

During the last Agreement all of the employees in the bargaining unit, holding the classification of Investigator, received additional wages

adjustments, above across-the-board wage increase, that came about as a result of a jointly agreed upon salary study conducted by the Archer Company. The agreement to engage in a salary study involving the Archer Company was the same approach taken by the parties in the CSEA bargaining unit that is also represented by Teamsters Local 407. Bargaining history, being one of the major criteria a neutral must consider in analyzing the position of the parties, provides this neutral with reason to support the parties' long-term efforts in creating a salary structure that is supported by reliable data, competitive with other like jurisdictions, and can be implemented in a fiscally responsible manner.

A mediation/fact-finding hearing was held on May 1, 2007. The fact-finder, who regularly serves as a neutral fact finder, conciliator, and arbitrator in Cuyahoga County, is familiar with the County's current financial situation and the wages and benefits provided to many of its bargaining units. This prior experience provided the fact-finder with the ability to more readily understand the background of the issues in dispute during attempted mediation. The demeanor and conduct of the advocates from both bargaining teams exemplify the responsibility with which the parties view their roles. The individuals present during the fact-finding process on both sides of the bargaining table demonstrated a keen interest in providing quality service to the citizens of Cuyahoga County while at the same time addressing the problems related to the issues in dispute.

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.

OVERALL RATIONALE FOR DETERMINATIONS (Recommendations)

Although perceptively better than in the earlier part of the current decade, Ohio's economy remains uncertain as does the financial outlook for many Ohio public employers. The state of Ohio continues to struggle to find ways to fund the many obligations it shoulders such as Medicaid costs, education, job growth, and a myriad of other pressing economic demands. And, although somewhat improved in the last several months, the state's economy is not uniformly improved and continues to experience shortfalls between revenue and expenses fueled by substantial and likely permanent losses of relatively high paying manufacturing jobs in particular sectors of the state. Recently announcements by the Ford Motor Company promise to add to the loss of high paying jobs in Cuyahoga County and along with those losses will directly impact other businesses and the overall revenue stream to county government.

Cuyahoga County is one of the political jurisdictions that are undergoing a significant structural change in its economy, presenting new challenges to its political leaders. Although the County is arguably well managed by many standards, the economic realities that continue to plague Cuyahoga County are challenging and the limitations they create are not lost on the analysis of this fact finder. There is a bottom line to watch in all business and government is no exception. However, the delivery of quality service depends on recruiting and

retaining quality employees. The maintenance of competitive wages and benefits is central to maintaining a quality workforce.

Issues

The negotiated paid lunch that is contained in the Agreement is a valuable benefit and I find the Employer's proposed language placing conditions of having to work a minimum number of hours prior to and following lunch to be reasonable. Moreover, the Employer recognizes the importance of equity in this matter thereby only imposing these conditions if said provisos are also applicable to all non-bargaining unit personnel. It is also significant to note that the same language has been adopted by the CSEA bargaining unit, which is also represented by Local 407. The Union argues that the CSEA received a considerably greater wage equity increase and therefore is not a reasonable comparable. While forcefully presented, the fact finder finds that the wage issue is not relevant to the issue of time requirements surrounding the paid lunch hour.

The holiday pay issue being proposed by the Employer was modified during the mediation process. In order to receive pay for a holiday it requires an employee to work the last scheduled day before the holiday and the first scheduled day following the holiday. It also includes several acceptable situations where an employee is considered to have worked, including vacation time, verified funeral leave, verified accident or illness or any other prior approved leave.

I find the current language *"To be entitled to holiday pay an employee must be in active pay status the last scheduled workday before the holiday"* to be somewhat repetitive when the addition of the Employer's proposed language is considered. The concept being forward by the Employer of having to work the day before and after a holiday is commonplace in public and private sector labor agreements. In fact, the language being proposed by the Employer takes into consideration several other conditions that arguably and reasonably should be construed as hours worked for the purpose of holiday pay. Moreover, the implementation of this conditional language is supported by internal comparables.

The Union convincingly argues that certain types of leaves are not normally approved in advance. Furthermore, the Union refutes the argument made by the Employer that all of the other bargaining units in the County have similar restrictive language in their collective bargaining agreements. Without additional data there is no way to reasonably establish which argument has more validity. Given the fact that holiday benefit time is frequently similar for all employees, it is not unreasonable for the Union to argue that every non supervisory employee should be treated in a similar fashion before the bargaining unit is subjected to the same conditions place upon the payment of holiday pay. As with the language regarding the paid lunch hour, the bargaining unit should only be expected to comply with such changes once all bargaining and non bargaining unit employees have similar restrictions.

The Employer proposes a change in Article 44, Personal Days. Sections 1 and 2 requiring the completion of a probationary period in order to be entitled to eight (8) hours of accumulated sick leave as a personal day. The Union persuasively argued for maintaining the status quo pointing out the need a new employee, who by definition has very little benefit, to be able to have at least one day of personal leave in case of an emergency. However, the facts and comparables do not support adding an additional personal day.

The County persuasively argued that considerable salary improvements have been made regarding the classification of Investigator in the prior agreement, including the wage re-opener that occurred in 2005. The County also asserts that any across-the-board salary increases must be in line with what has occurred with other bargaining units. Equity in terms of salary increases among bargaining units under the same employer (patterned settlements) is a credible argument. The Union is seeking wage increases which far exceed that which is being proposed by the Employer. When considering the additional 3.5% steps added in 2007 and 2008 the Employee's proposals is much closer to the going rate of 3% and comports with the settlement pattern in the county.

The Union vigorously argued for salary improvements in the salary schedule for Senior Clerks and for a change in their title to Administrative Assistant. It argues the Archer Report was flawed in that it did not take into consideration all the various tasks performed by the Senior Clerk classification. The Union submitted documentation. In support of its arguments the Union

submitted its own survey data, Union Exhs. 10 and 11. The Union asserts that the top rate for Senior Clerks is \$.87 below the top average wage for Ohio counties. According to the Union, the top average rate for the position of Investigator is far closer to the average. It involves only a \$.12 differential (Union Exh. 12).

In the opinion of this fact finder the Archer Company's findings carry considerable weight. The parties jointly agreed to contract with a consultant and were involved in the process leading to the consultant's findings. The Employer points out that the data, and in particular the salary survey conducted by the Archer Company, upon which the parties agreed was to have binding effect, does not support an adjustment in the salary of the four (4) Senior Clerks in this round of negotiations. However, a title change that more accurately reflects the duties of the Senior Clerk was recommended by the consultant and should be implemented.

It should be made clear that the findings in this report are based upon the salary research that was supported by the parties and which the fact finder determines to still be relevant for the purposes of making a recommendation for the period of this agreement. The findings are in no way intended to restrict the parties from revisiting the issue of competitiveness of Senior Clerk (Investigator Assistant) salaries in the future.

The County argued for an increase in the employee share of the health care premium in terms of raises on the caps and a change in the percentage paid by employees. The Union understandably was insistent on maintaining cost

caps and in maintaining the current percentage of employee contributions toward health care premiums. There appears room for a measured increase in caps that provides the County with incremental relief, while minimizing the financial impact upon employees. In addition a modest shift in the percentage that has employees assuming less than 10% of the premium cost is in line with and in many cases below what other private and public sector employees pay in Ohio (see SERB data on this subject).

After carefully considering the facts and evidence presented in this case and utilizing the salary structure recommended by the consultant, the following determinations are made:

Issue 1	Article 8, Section 1	Hours of Work
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Determination:

Adopt the Employer's proposed language contained in its brief dated May 14, 2007.

Issue 2	Article 15, Section 4	Holiday Pay
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Determination:

Modify Article 15, Section 4, as follows:

Section 4: To be entitled to holiday pay, an employee must be in active pay status the last scheduled workday before the holiday. **Thirty (30) calendar days following proof submitted to the Union of these same restrictions applying to all bargaining unit and non-bargaining unit non-supervisory employees under the County Commissioner's jurisdiction, the following language shall become effective:**

To be entitled to holiday pay an employee must be in active pay status and must work the scheduled workday before and the scheduled workday after the holiday. For the purpose of this paragraph approved vacation time, verified funeral leave, verified accident or injury which requires inpatient hospitalization or out-patient treatment, bona fide illness, and any other written approved paid leaves of absence will be considered as hours worked.

Issue 3 Article 31 Wages

Determination:

All employees in the bargaining unit shall be moved to new Appendix C:

Year	Classification	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>	<u>Step 6</u>
2006	Investigator	15.21	16.46	17.37	18.29	18.94	
	Investigator Asst	11.59	13.55	14.29	15.05		
2007	Investigator	15.59	16.87	17.81	18.75	19.41	20.10
	Investigator Asst	11.88	13.88	14.65	15.42		
2008	Investigator	15.90	17.21	18.16	19.12	19.80	20.50
	Investigator Asst	12.11	14.16	14.94	15.73		

- A) Effective retroactive to July 1, 2006 the wage schedule shall be increased by two (2) percent (2%). An additional 3.5% step (Step 5) shall be added to the investigator wage schedule effective January 1, 2007. Employees in the Investigator classification who are at Step 4 on

the wage schedule as of July 1, 2006 shall advance to Step 5 retroactive to May 1, 2007.

- B) Effective July 1, 2007 the wage schedule shall be increased by two and one half percent (2.5%). An additional 3.5% (Step 6) shall be added to the Investigator wage schedule effective January 1, 2008. Employees in the Investigator classification who are at Step 4 on the wage schedule as of July 1, 2007 shall advance to Step 6 effective January 1, 2008.

Issue 4 Article 32 Health Insurance

Determination:

Section 1: Effective the first date of the first month following ratification of the Collective Bargaining Agreement by both parties, the Employer shall contribute ninety-five percent (95%) of the costs of the medical and prescription plans. The cost will be determined through an actuarially certified process that includes reserves necessary to sustain the plans. Employees shall contribute five percent (5%) of the costs of the plans as described above. Employee biweekly contributions shall initially be capped at ten dollars (\$10.00) for single plans and twenty dollars (\$20.00) for family plans. Effective August 1, 2007 the biweekly caps noted above shall be increased by five dollars (\$5.00) for single coverage and ten dollars (\$10.00) for family coverage. In successive plan years, the Employer may add to or delete plans/providers offered. The Employer shall offer at least one single and one family plan free of cost to bargaining unit members for the duration of this Agreement. Selection of free plan(s) offered shall be at the discretion of the Employer and may be HMO or other plan types.

Effective January 1, 2008, the biweekly employee contribution caps listed above shall be increased by five dollars (\$5.00) for single coverage and five dollars (\$5.00) for family coverage.

Section 2: Maintain current language.

Section 3: The Employer shall be entitled to increase the cost containment features of the Flexcount Plan.

Section 4: Effective the first date of the first month following ratification of the Collective Bargaining Agreement by both parties, the Employer shall contribute one-hundred percent (\$100%) of the premium costs for each ancillary benefit plan (i.e., vision, and dental). Effective August 1, 2007, the Employer shall contribute ninety-five percent (95%) of the premium costs for each ancillary benefit and the employee shall contribute five percent (5%) of the premium costs for each vision and dental plan.

All other sections: Maintain current language

Issue 5 Article 44 Personal Days

Determination:

Maintain current language

Issue 6 Article 46 Duration

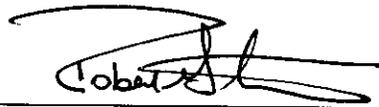
Determination:

A three (3) year contract is proposed with an effective date of July 1, 2006 through June 30, 2009.

TENTATIVE AGREEMENT

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

The Fact-finder respectfully submits the above recommendations to the parties this 29th day of June 2007 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