

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In the Matter of Fact Finding	*	
Between	*	
	*	FINDINGS
LAKEWOOD FIREFIGHTERS	*	AND
ASSOCIATION	*	RECOMMENDATIONS
IAFF LOCAL 382	*	
	*	09-MED-07-0757
	*	
and	*	Anna DuVal Smith
	*	Fact-Finder
CITY OF LAKEWOOD	*	
	*	

Appearances

For the Lakewood Firefighters Association:

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I. SUBMISSION

The Lakewood Association of Fire Fighters, IAFF Local 382 represents approximately 76 firefighters employed by the City of Lakewood. Their 2007-2009 collective bargaining agreement contains a “me too” clause requiring the parties to

meet and negotiate any matter that Police, Public Works or the Lakewood Paramedic Association union negotiates or is awarded for 2007-09 that is more economically beneficial in wages and medical benefits.”

After the Firefighters’ negotiation of the 2007-2009 contract concluded, the City settled the police contract providing, in part, patrol officers with a \$250/year increase in the firearms proficiency stipend and other enhancements. The Firefighters, believing these triggered their “me too” clause, filed a grievance when the City, claiming the subject modifications were not “wages,” refused to negotiate. This grievance came for arbitration in March of 2009. The arbitrator’s decision, issued in June, held that the HazMat stipend was “compensation for services rendered” like firearms proficiency, and directed negotiation of the FireFighters’ HazMat stipend.

The parties then attempted to reach a mutually agreeable resolution of HazMat pay through negotiation but were unable to reach an agreement. They accordingly invoked fact-finding pursuant to Chapter 4117 O.R.C. The undersigned was appointed Fact Finder on October 1, 2009, and a hearing was set for December 1. Pre-hearing statements were filed on or before November 30. On December 1 both parties were afforded an opportunity to make opening statements and examine and cross-examine witnesses, to introduce documentary evidence, and to argue their positions. The parties waived post-hearing briefs and stipulated that the Fact-Finder was to issue a summary Report of Findings and Recommendations by email on December 4, 2009. The record was closed at 1 p.m. on December 1.

In rendering these Findings and Recommendations, the Fact-Finder has given full consideration to all reliable information provided by the parties which is relevant to the issues and to all criteria specified in §4117.14(C)(4)(e) and Rule 4117-9-05 (J) and (K) O.A.C., to wit:

- (1) Past collectively bargained agreements between the parties;
- (2) Comparison of the 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, 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) Stipulations of the parties;
- (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.

II. POSITIONS OF THE PARTIES

The position of the Union is that firefighters' HazMat pay should be increased to match the police bargaining unit's Firearms Proficiency Pay, retroactive to January 1, 2007: \$750 (2007)/\$1000 (2008)/\$1250 (2009). By its calculations, the three year total payroll cost of the adjustment is \$116,250. Financial records show an unencumbered balance of \$1.8 million as of October 31, 2009, sufficient to cover the additional payroll costs.

The City's position is that it has experienced a period of financial crisis necessitating layoffs and service cuts including elimination of programs, concessions from two bargaining units, and wage freezes and other cuts for nonunion employees. These and other measures allowed the City to end 2008 with a \$950,000 balance (less than a 3% carryover). But the City had to take additional austerity measures in 2009 and now expects revenues in 2010 to slip by \$2 million due at least in part to a reduction in contributions from the State of Ohio and reduced income and property taxes. The City is therefore looking to spend \$1.8 million less in 2010 than in 2009. Finally, the City maintains that the Union's proposed increase would create a compensation disparity between the firefighters and police of approximately \$1250 per year, sure to lead the FOP to seek a similar enhancement in their soon-to-expire collective bargaining agreement. For these reasons, the Factfinder should reject the Firefighters' proposal.

III. FINDINGS AND RECOMMENDATION

Modifications to the HazMat pay provision are not warranted. However, the Factfinder recommends that there be a lump sum payment of HazMat pay in the amount of \$750 plus a \$500 non-pensionable lump-sum payment (such as uniform maintenance allowance). Further, that the five firefighters who retired in 2008 and 2009¹ also receive the \$750 HazMat lump sum.

Respectfully submitted,



Anna DuVal Smith, Ph.D.
Fact Finder

December 4, 2009
Cuyahoga County, Ohio

serb1335

¹Named in the document made part of the record for this purpose.

CERTIFICATE OF SERVICE

I certify that on the 4th day of December 2009, I served the foregoing Report of Fact Finder upon each of the parties to this matter by emailing a copy to them at their respective addresses as shown below:

Jon M. Dileno, Esq.
jmd@zrlaw.com

Thomas Hanculak, Esq.
tmhanculak@aol.com

I further certify that on the 4th day of December 2009, I submitted this Report by e-mailing it to the State Employment Relations Board at Mary.Laurent@serb.state.oh.us



Anna DuVal Smith, Ph.D.
Fact Finder