

Received Electronically @ SERB Mar 23, 2012
9:41am

IN THE MATTER OF FACT FINDING

BETWEEN

AFSCME OHIO COUNCIL 8 AND LOCAL 3770

AND

COLUMBUS REGIONAL AIRPORT AUTHORITY

SERB CASE #10-MED-12-1793

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INTRODUCTION

The parties to this matter are AFSCME Ohio Council 8 and Local 3770 (hereinafter “Union” or “Local”) and the Columbus Regional Airport Authority (hereinafter “Employer”, “Authority”). The Employer is located in central Ohio and in Ohio’s largest city. The bargaining unit is comprised of approximately one hundred and forty-seven (147) employees who work in a wide variety of skilled classifications for the Authority. These employees provide vital services to the Authority. The parties opted to forgo mediation and to go directly to fact finding, given the history of negotiations, tentative agreements reached and subsequently rejected by the bargaining unit. Mediation is a voluntary process and if one or both parties simply do not want to participate then the fact finder must proceed with his statutory responsibilities. A fact finding hearing was held on Monday, March 6, 2012.

General/State/Local Economic Overview: Cautious optimism appears to be an apt characterization of the state of the current national and international economy that by virtue of world interdependence can be impacted by the economy of a small European country located several thousands of miles away. The economy in Ohio continues to show some signs of improvement from a very severe national recession that remains subject to the financial health of the United States and other countries, particularly those who are currently facing considerable debt in Europe. It remains to be seen if the recent resolution in Greece will hold and if others such as Portugal or Spain will continue to plague the financial markets. But that is just one set of worries; others include a housing market that is just showing signs of recovery, and rising gasoline prices fueled once again by unrest in countries several thousand miles east of the United States. Just a few months ago, substantial swings in the stock market on a weekly and sometime daily basis were commonplace. For the last several weeks it appears the national economy has become somewhat more stable and the wild swings seem to have evened out since the beginning of 2012. Yet, what Americans have experienced from 2008 until the present has left a lasting impression about the uncertainty and fragility of the future.

The national unemployment rate is currently 8.3%, which has helped to create shoots of optimism among people hopeful for better times. In addition, the adding of jobs to the economy has proved to be steady during the past several months. All the news is not underscored with tentativeness; there are pockets of recovery and some employers are doing well and continue to do well in the aftermath of the recession. Detroit automakers are experiencing a comeback, extra shifts are being added, and that is particularly good news for neighboring Ohio. Ironically, the City of Detroit is facing very severe economic challenges, like many public sector entities. The facts indicate that Ohio is in a very slow recovery that is still plagued by a lack of jobs that pay a living wage. Moreover, there are countless numbers of unemployed people who have, for the time being, stopped looking for work and are not

counted among the unemployed. Hopefully, they will reenter the job market and find meaningful employment. Foreclosures in Ohio continue to rise in 2012. Several months ago what has been called the great recession was declared to be officially ended. Yet, for people in Ohio who are unemployed, underemployed, have experienced dramatic declines in their home values, face foreclosure, have given back benefits and paid days, have foregone wage increases for years, and have been laid off, such declarations ring hollow.

The Employer and the bargaining unit deserve credit for a well-functioning airport authority that provides an efficient service to public. Anecdotally, the fact finder in his work, has often utilized Port Columbus and has found it efficient. However, that does not mean a seemingly successful organization does not have challenges and should not manage their assets prudently. Many members of the bargaining unit understand firsthand what needs to be done to maintain the many facets of operating a complex entity, such as the airport authority.

To their credit, public employee unions and employees in Ohio have, in the main, recognized and responded to their employers who continue to experience a shortfall in revenue coupled with rising costs. State employees and many county, city, and township public employees in and outside of Ohio have and continue to make unprecedented financial sacrifices in the form of layoffs, wage freezes, benefit givebacks, furlough days and in paying more for their medical coverage. State employees recently agreed to a second three (3) year contract that once again contains no wage increases. The Authority and the bargaining unit in the instant matter are in many ways in a better position than many of their public sector colleagues, a fact that has not escaped this fact finder in evaluating the issues in dispute.

The three (3) issues brought to fact finding in broad terms are Wages, Insurance, and paid lunches for employees located at Rickenbacker International Airport (“Rickenbacker”), one of two major airports operated by the Authority. Bolton field is also maintained by the Authority. It is significant to note the history of bargaining between the parties. Following approximate seven (7) negotiations sessions, the parties reached their first tentative agreement in July of 2011. This initial tentative agreement was accepted by the Authority’s Board of Directors on July 26, 2011, but failed to be ratified by the Union. Bargaining continued in the fall of 2011 with discussion centering around four issues: Insurance premium contributions; lump sum payments to employees outside of the salary grid instead of across-the-board increases; limitations on double-time pay; and paid lunches at Rickenbacker. The parties, with the subsequent assistance of a mediator at the Federal Mediation and Conciliation Service, agreed to revisit the original July tentative agreement, made some revisions, and reached a second tentative agreement. On February 22, 2012, the tentative agreement once failed to be ratified by the bargaining unit, but this time by the narrowest of margins, a single vote. Clearly the parties have in good faith attempted to resolve their differences.

The Employer’s position in this matter is straightforward. It believes that the fact finder should not disturb what the parties, over a period of several months have fashioned, only to have it fail by a narrow vote. It argues that the facts in this case support recommending the revised tentative agreement reached in February of 2012. The Union on the other hand, while

acknowledging the near passage of the second tentative agreement, asserts there needs to be additional modifications favorable to the bargaining unit in the issues before the fact finder.

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.

Issue 1 Article 12, Section 12.5 Insurance

Current Language (see CBA)

Employer's Position. The Employer proposes that in year two (2) and three (3) insurance contributions by the bargaining unit should be eleven percent (11%) in the second year of the Agreement and twelve percent (12%) in year three. It argues that a cap on insurance premiums undermines the principle of paying an honest percentage of the costs. The Authority in its Pre-hearing statement makes the following arguments:

"Insurance costs have sky-rocketed during the past ten years. In an effort to control costs, the Authority implemented a high-deductible insurance plan in 2006 with the Authority contributing the deductible amount to a VEBA account for each employee, made available wellness incentive programs, and increased the amount of insurance premiums contributed by each employee. The contribution amount increased until reaching the amount reflected in the last year of the expired Agreement, 12% with monthly caps of \$50 single and \$110 family.¹ The Parties bargained for, and agreed to, the removal of the monthly caps on employee contributions in Contract Years 2 and 3.

All Authority employees, Union and non-union, non-exempt and exempt, participate in the same insurance plan. OPBA bargaining unit members currently pay an uncapped 11% of the total premium paid by the Authority; FOP bargaining unit members and employees not represented by a collective bargaining agreement currently pay an uncapped 10% - an amount that will increase to 11% in May 2012, and 12% in May 2013. The revised Tentative Agreement, agreed to by the Parties, simply aligns the insurance contributions made by AFSCME members with those being made by the rest of the organization."

Union's Position. The Union in its Pre-hearing statement states:

"The Union has proposed a fair and adequate increase to the caps to cover the amounts that insurance has increased statewide."

It argues that its proposal provides increases in the caps on health care premium that insurance members will pay their fair share, while having protective caps in place in case there is a substantial increase in premiums. For the first year of the Agreement it proposes caps as follows: single: \$50 and family: \$140. Effective July 1, 2012 these amounts would be: single: \$60 and family: \$160; and effective July 1, 2013 these amounts are proposed to be: single: \$70 and family: \$180. The Union agrees with the percentage increases of 10%, 11%, and 12% for each year of the Agreement.

¹ This amounts to an effective percentage rate of 9.96% single and 7.94% family in 2010, and an effective percentage rate of 9.77% single and 7.78% family for 2011. The Plan Year runs from 5/1 to 4/30.

Discussion. The facts submitted into the record indicate that in comparable geographic jurisdictions (such as the City of Columbus, the Columbus Health Department, and the Columbus Zoo) all of which have AFSCME units and all of which are in a similar economic region of the state do not have caps on the insurance premiums of bargaining unit employees. The existence of the VEBA in this relationship is of great benefit to the Employer and the bargaining unit. It is also a unique and valuable benefit when compared to what is common in the private and public sector. The Employer in contributing to the VEBA of each employee, substantially cushions the impact of having to pay deductibles in the event of illness and injury. (Employer Ex. 3) It must be noted that this HSA contribution program speaks to the progressive nature of the parties' approach to controlling health care costs and represents cutting edge thinking. (Employer Ex. 2) The fact that it is a benefit that builds from year to year is of further advantage to employees, who can typically experience both bad and good stretches in the need to access health care. All Authority employees, Union (OPBA and FOP) and non-union alike, participate in the same plan and do not have caps on insurance premiums are also significant internal comparable factors that need to be considered here. (Employer Ex. 6) And while the data from SERB indicates slightly lower employee premium percentages, it does not account for the substantial offsetting benefits of having a VEBA account for each employee. The Authority in its proposal (and prior 2nd tentative agreement) is proposing that bargaining unit employees provide less than half of what employee contributions are nationally. The facts support the Employer's position in this matter, which is the same as the tentative agreement reached in February of 2012.

Recommendation

The tentative agreement language originally reached in February is recommended. It reads as follows:

12.5 Employee Premium Contributions Employees participating in the Authority's health plan are required to make contributions towards health, dental, vision care and prescription drug plan coverage on a monthly-bi-weekly basis. Contributions shall be a percentage of the actual premium paid by the Authority for health, dental, vision and prescription drug plan coverage as set out in the following schedule:

Effective Date	Single Coverage	Family Coverage
<u>Prior to the pay period that includes May 1, 2012</u>	12% up to a maximum of \$50.00	12% up to a maximum of \$110.00
<u>Effective during the pay period that includes May 1, 2012</u>	<u>11%</u>	<u>11%</u>
<u>Effective during the pay period that includes May 1, 2013</u>	<u>12%</u>	<u>12%</u>

All other sections of this Article shall remain current language unless previously TA'd by the parties.

Issue 2 Article 37, Section 37.1 Wages

Current Language (see CBA)

Union's Position. The Union proposes that bargaining unit members whose current wages exceed the pay grid maximums should receive their entire salary increase in the form of an across-the-board salary increase and shall be added to the member's base wage rate.

Employer's Position. The Employer's position is the same as it was in the tentative agreement reached in February of 2012. For those employees whose salary exceeds the pay grid, it proposes a partial lump sum payment and a salary increase that would result in the previously agreed upon amount of three percent (3%).

Discussion. I find the proposal of the Employer to be reasonable from the standpoint of the well accepted and recognized need to preserve the integrity of a salary grid in order to establish and maintain fair and competitive salaries among different classifications of employees. Salary grids are important tools for employers to remain competitive in a specific economic jurisdiction or market. Such grids are developed over time and are based upon an employer establishing pay ranges that comport with skill levels and what comparable employers are paying in the marketplace. They are important recruitment and retention tools for every human resource department. If increases in salary are simply put into place without any consideration of a grid, the pay ranges lose their relationship to various expertise requirements as well what the Employer's competitors are paying for the same type of work. For example, if there is a 6% differential between one pay grade and another, simply letting across-the-board percentages be applied without paying attention to the relative distance between pay grades and the parameters of the grid, will eventually result in a distortion between the relationship of one pay grade to another, undermining the well accepted principle of pay for such things as education, skill and knowledge. Unchecked this approach will eventually become problematic for the Employer and will cause resentment among bargaining unit members. It is also important to note from the standpoint of bargaining history the parties followed this same wage settlement pattern in the 2009 wage reopener. If employees are above the pay grade, the Employer's proposal still provides the same amount of pay to each employee (e.g. 3%), allows some reasonable movement in the grid, without undermining the integrity of the grid.

Recommendation

The tentative agreement language originally reached in February is recommended. It reads as follows:

37.1 General Pay Plan

a. Effective upon ratification by both parties, and continuing through the remainder of the 2011-2014 contract period, the parties agree to maintain a merit based pay plan. The parties also agree, to continue to work together to enhance the existing evaluation system to best meet the needs of both parties.

b. Lump Sum Payment in Recognition of Contract Year One In lieu of any retroactive changes in wage rates or lump sum merit payments during Contract Year 1, the parties have agreed that Bargaining Unit members employed by the Authority on or before April 1, 2011, and still employed by the Authority as of March 1, 2012, shall receive a one-time, lump sum payment of \$1500. Members of the Bargaining Unit employed by the Authority after March 1, 2011, and still employed by the Authority as of March 1, 2012, shall receive a pro-rated lump sum amount.

The lump sum payment shall be made not later than April 20, 2012, and shall be subject to all applicable withholdings. The payment shall not be considered to be an amount subject to PERS.

The wage rate placement language in Section 37.1d, below shall be used only for guidance in determining employee's wage rates for Contract Year 2.

c. Placement of Employees on Contract Year 2 Salary Grade Structure

- Effective with the pay period that includes April 1, 2012, the wage rate of each employee shall be placed on the Contract Year 1 Salary Grade Structure in Appendix A in the manner described in Section 37.1d, below. This placement is only for the purpose of determining each employee's proper wage rate for Contract Year 2.
- Following recognition of each employee's Contract Year 1 wage rate, and also effective with the pay period that includes April 1, 2012, each employee's wage rate shall be advanced to the wage rate shown in the Contract Year 2 Salary Grade Structure in Appendix A in the manner described in Section 37.1e, below.

d. Recognition of Contract Year 1 Wage Rate for Purposes of Placement of Employees on Contract Year 2 Salary Grade Structure.

- i. Employees whose wage rate is within the pay grid as shown in Appendix A for Contract Year 1, will have 3% of the wage rate increase added to the base wage rate for the purpose of determining each employee's proper wage rate for Contract Year 2.
- ii. Employees whose wage rate is above the pay grid maximum, as shown in Appendix A for Contract Year 1, will have 1% of the wage rate increase added to the base wage rate for the purpose of determining each employee's proper wage rate for Contract Year 2.
- iii. Employees whose wage rate would exceed the top of the pay grid maximum as a result of the payment of the wage rate increase, shall have added to the base wage rate, only for the purpose of determining each employee's proper wage rate for Contract Year 2, as much of the increase as will take them to the top of the pay grid but in no event less than 1%.

e. Effective with the pay period that includes April 1, 2012, and following each employee's wage rate placement on the Contract Year 1 Salary Grade Structure as described in Section 37.1c, above, each employee's wage rate will be increased by 3.0% for Contract Year 2.

- i. Employees whose wage rate is above the pay grid maximum, as shown in Appendix A for Contract Year 2, will have 1% of the wage rate increase added to the base wage rate and the remaining 2% of the wage rate increase in a lump sum payment.
- ii. Employees whose wage rate would exceed the top of the pay grid maximum as a result of the payment of the wage rate increase, shall have added to the base wage rate as much of the increase as will take them to the top of the pay grid but in no event less than 1%. Any remaining amount, up to the maximum of the 3% wage increase, will be paid out in a lump sum

f. Effective with the pay period that includes April 1, 2013, each employee's wage rate will be increased by 3.0% for Contract Year 3.

- i. Employees whose wage rate is above the pay grid maximum, as shown in Appendix A for Contract Year 3, will have 2% of the wage rate increase added to the base wage rate and the remaining 1% of the wage rate increase in a lump sum payment.

- ii. Employees whose wage rate would exceed the top of the pay grid maximum as a result of the payment of the wage rate increase, shall have added to the base wage rate as much of the increase as will take them to the top of the pay grid but in no event less than 2%. Any remaining amount, up to the maximum of the 3% wage increase, will be paid out in a lump sum

All other sections of this Article shall remain current language unless previously TA'd by the parties.

Issue 3 Article 39, Section 39.6 Unpaid Lunches at Rickenbacker International Airport

Current Language (see CBA)

Union's Position. The Union proposes to eliminate current Section 39.6 and replace it with the following modified language for Section 39.5:

39.5 All Port Columbus, ~~and~~ Bolton Field **and LCK** employees shall be granted a paid lunch period of 30 minutes during each full shift. Whenever possible the lunch period shall be scheduled at the middle of each full shift. When there is an extension of an eight (8) hour workday beyond the normal eight (8) hours as a result of an emergency or scheduled overtime, a paid lunch period shall be granted when the extension exceeds four (4) hours.

The Union argues that the employees located at Rickenbacker (LCK) should be provided a paid lunch as is the case with the employees at Port Columbus and Bolton.

Employer's Position. The Employer, as was the case in the first two issues, proposes the current language of Article 39.6 that the parties agreed upon in the tentative agreement reached in February of 2012. It further contends when the employees of LCK came into the bargaining unit they benefited in other ways. One example of this is the fact that employees at Rickenbacker paid lower rates for their health insurance.

Discussion. It is noted from the facts in this case that the Union did not originally propose a change to paid lunch at LCK, and the language covering this area was withdrawn from the negotiating table during bargaining. Good faith bargaining needs to follow predictable rules of decorum and one of those rules is to not resurrect issues that have been withdrawn by one or

both parties. Additionally, it is uncommon in the public sector as well as the private sector to find that negotiations are trending in the direction of paying employees for unproductive time.

Recommendation

The tentative agreement language originally reached in February, which represents current language is recommended. It reads as follows:

39.6 All LCK employees shall be granted an unpaid lunch period of thirty (30) minutes during each full shift. Whenever possible the lunch period shall be scheduled at the middle of each full shift. When there is an extension of an eight (8) hour workday beyond the normal eight (8) hours as a result of an emergency or scheduled overtime, a paid lunch period shall be granted when the extension exceeds four (4) hours.

All other sections of this Article shall remain current language unless previously TA'd by the parties.

TENTATIVE AGREEMENT

During negotiations and during and following impasse proceedings, the parties reached tentative agreements on several issues. These tentative agreements, pending tentative agreements, removal of Memorandums, and any unchanged current language are part of the determinations/recommendations for a successor Collective Bargaining Agreement contained in this report.

The fact finder respectfully submits the above recommendations to the parties this _____ day of March 2012 in Portage County, Ohio.

Robert G. Stein, Fact finder