

✓

STATE OF OHIO STATE EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF FACT-FINDING BETWEEN:

PORTAGE COUNTY DISTRICT LIBRARY (EMPLOYER)

and

**DISTRICT 925, SERVICE EMPLOYEES INTERNATIONAL UNION
(UNION)**

CASE NO: 95-MED-10-0948

REPORT AND RECOMMENDATION OF FACT-FINDER THOMAS R. SKULINA

HEARING

Mediation was conducted on March 6, 1996 and fact-finding was held on April 9, 1996. Advocates were Ronald J. Habowski, Esquire for the Library and Susannah Muskovitz, Esquire for the Union.

ISSUES

Three issues were unresolved. These were 1.) Duration, 2.) Dues Checkoff and Fair Share and 3.) Wages.

SIGN-OFF - TENTATIVE AGREEMENT

The duration issue was agreed to in principle by the advocates at the fact-finding hearing.

At the mediation conference, the other two issues were signed off by the negotiating team representatives.

The sign-offs were subject to ratification by the Union and the Library Board.

The Union voted against both issues and presented both to fact-finding.

The Union cited case law to the effect that it is not an unfair labor practice for a party to reopen an issue after a tentative agreement has been reached.

In the absence of any authority to the contrary, the fact-finding proceeded on the issues raised by the Union..

At this juncture, the weight of the tentative agreements shall be discussed.

The agreements were reached as the culmination of numerous collective bargaining meetings. The finale was a full day of mediation conducted by this fact-finder.

The principals of these agreements were very experienced, capable advocates who had practiced before this fact-finder in the past.

The signing-off constitutes a "factor which is normally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment".

Both parties to extensive meetings finally had agreed that each side had a satisfactory contractual clause.

In the course of an extensive one day of fact-finding, evidence was submitted and there was enough to warrant a modest change in the provisions that shall be recommended.

Any alteration in the tentative agreements, however, are made solely on the evidentiary presentation.

There is some reluctance to enhance either parties position at fact-finding after previous agreements. Fact-finding is not designed to be an automatic increase or enhancement.

In this instance, the modification that does make a slight adjustment in the wage package is justified by the testimony and introduction of the current budget. This data was not available in the earlier sessions. The permanent budget was not prepared until March. The parties were working from a proposed budget that had been prepared in September.

1. ARTICLE _____ DURATION

A. Recommendation:

This Agreement shall be effective upon execution and shall expire at midnight on December 31, 1998. The Agreement shall be renewed automatically for successive one (1) year periods, thereafter, if neither party initiates negotiations via certified mail during the fourth month prior to expiration of the Agreement.

2. ARTICLE _____ WAGES

A. Discussion:

This is a first contract for the bargaining unit which is comprised of approximately forty-eight clerical, maintenance/delivery and professional positions.

Evidence was introduced by both parties relative to the comparable wages paid similarly situated employees at various locations that bear relevance to Portage County.

The Library Board had in the past addressed the issue of the pay ranges for the various grades of employees.

The so-called Gortz plan was prepared by an independent consultant.

A review of this plan indicates that most employees are below the recommended pay ban.

The parties have not attempted to address various classifications to bargain a rate change in selective occupations. Rather, both sides opted for overall percentage increases for the entire unit.

A random comparison of the pay scale of the unit employees with other cities supports the proposition that the Portage County employees are on the low end of the scale. A raise is certainly in order.

Portage County, however, is not on the high end of the prosperity scale.

A review of all Portage County union contracts for 1993-1996 has a consistent pattern of three percent per annum increases.

Testimony of the economic status of the library was introduced. It appears that the current budget provides for a five percent lump sum raise and three percent raises thereafter.

The Board's last proposal and the tentative agreement did not add the five percent to the base of the employees' rates.

The budget, however, has a modest amount of extra money set aside.

Though the tentative agreements create a reluctance on the part of the fact-finder to avoid a syndrome of "one more bite at the apple", the record does support the union's claim of the need to upgrade the wage scale of the bargaining unit.

These individuals have received no increases since 1994. It is no one's fault since the initiation of a first labor contract does take time regardless of the good will of both parties.

Inflation, therefore, has eroded the purchasing power of all these individuals.

The three percent rate increase standard in this county has addressed this factor and is a fair raise.

To upgrade the unit, an additional two percent for 1995 is certainly in order.

The Board proposes that the five percent should be a one time pay increase and not be a part of the wage base. The Union would have the five percent and further five percent increases as part of the base.

In light of the modest cost, the need to upgrade the pay of the bargaining unit, and the ability of the Library to pay, I recommend that the 1995 increase remain at five percent, however, three percent shall be added to the base rate and two percent shall be a one time raise. Thereafter, consistent with all the other contracts in Portage County, I recommend three percent raises for 1996, 1997 and 1998.

The pay scale for new hires was signed off and I see no reason to change it.

B. Recommendation:

- A. All bargaining unit employees shall receive a one-time lump sum payment of two percent (2%) of the employee's respective 1995 bargaining unit base salary and a three percent (3%) retroactive wage increase, to be received no later than two pay periods following execution of this Agreement.
- B. Those employees hired before execution of this Agreement shall receive a three percent (3%) wage increase effective January 1, 1996; a three percent (3%) wage increase effective January 1, 1997; and a three percent (3%) wage increase effective January 1, 1998.
- C. Those employees hired after execution of this Agreement shall receive the following wages:

	<u>1/1/96</u>	<u>1/1/97</u>	<u>1/1/98</u>
1. Acquisition Clerk & Automation Technician	\$ 7.40	\$ 7.62	\$ 7.85
2. Assistant Technical Service Manager	8.47	8.72	8.98
3. Audio Visual Manager	8.47	8.72	8.98
4. Bookmobile Circulation Clerk	5.28	5.44	5.60
5. Bookmobile Driver	7.40	7.62	7.85
6. Branch Circulation Manager	7.40	7.62	7.85
7. Circulation Clerk	5.28	5.44	5.60
8. Computer Services Coordinator	8.47	8.72	8.98
9. District Circulation Manager	7.92	8.16	8.40
10. Material Delivery	5.28	5.44	5.60
11. Reference Librarian	7.92	8.16	8.40

12.	Technical Services Computer Operator	5.62	5.82	5.99
13.	Youth Services Assistant	5.28	5.44	5.60
14.	Youth Services Coordinator	11.88	12.24	12.60
15.	Youth Services Librarian	7.92	8.16	8.40

D. Those employees newly hired shall receive ninety percent (90%) of the above rates during their probationary period. Upon successful completion of the probationary period, such employees shall receive one hundred (100%) percent of the above rates.

E. Those employees newly transferred to a higher hourly paying position shall receive ninety percent (90%) of the higher hourly rate or their current rate, whichever is greater, during their probationary period. Upon successful completion of their probationary period, such employees shall receive one hundred percent (100%) of the above rates.

F. Those employees newly transferred to a lower hourly paying position shall receive one hundred percent (100%) of the lower rate.

G. Payday shall be every other Friday.

3. ARTICLE _____ CHECK OFF

A. Discussion:

Both parties had agreed to a check off provision in the Agreement. At the fact-finding hearing, it appears that the parties are still agreeable to this. Therefore, the tentative agreed language is recommended.

B. Recommendation:

- A. The Union shall provide the Library with signed authorization to deduct Union dues from a bargaining unit member's paycheck. The Union shall inform the Library in writing of the amount to be deducted.
- B. All authorized Union dues deductions or initiation fees will be made from the member's pay on a regular monthly basis in the first and second paycheck of the month. The Library will forward a check to the Union within ten (10) working days of each deduction plus a list of employees and deductions.
- C. The Union shall indemnify and hold the Library and any of its agents harmless against any and all claims, demands, suits, and other forms of liability that may arise out of, or by reason of action taken or not taken by the Library for the purpose of complying with any of the provisions of this Article, or in reliance on any notice or authorization form furnished under any of the provisions of this Article.

4. ARTICLE _____ FAIR SHARE

A. Discussion:

Both parties had tentatively agreed that fair share shall not be a part of this first labor contract.

The issue was again placed on the table at the fact-finding hearing

Testimony was introduced and the Union's position was well advocated.

There was no evidence, however, that Portage County had embraced this concept in new contracts.

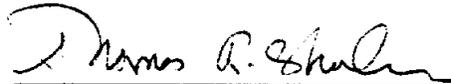
A new contract establishes a different relationship between the employees and the appointing authority.

The work and efforts of the Union become a matter of record over time both to the employer and also to the employees. Fair share becomes a different matter when the benefits achieved by the Union can be demonstrated over a period of time. Under this scenario, the non dues paying person can be shown to be unjustly enriched by the efforts and expense exerted by the dues paying union members and their Union.

Where a contract is new and where fair share has not been broadly accepted in a county, there is precedent for not recommending a fair share provision as part of the first contract.

The fact that the negotiating team's representative signed off on this issue gives further weight to this principle for first contracts in geographical areas that have not already embraced this concept.

I do not recommend a fair share provision for this Agreement.



THOMAS R. SKULINA
Fact-Finder

DATE ISSUED: April 25, 1996