

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In Regard to the Matter of the Fact-Finding Between:

CUYAHOGA COUNTY CHILD SUPPORT)	95-MED-11-1022
ENFORCEMENT AGENCY)	
)	
-AND-)	
)	
TRUCK DRIVERS UNION LOCAL 407)	

APPEARANCES

For The County

Myers Rollins Jr., Esq.,	Deputy Director, Office of Employment Relations
Joe Gauntner	Director - CSEA
Teri L. Ciccirelli	Personnel Administrator
James Cole	Assistant Director, Dept. of Human Services
James L. Viviani	Manager, Management Services Division

For The Union

Vic Collova	Business Agent
Pat LaGambina	SEO II, Steward
Barbara A. Tranton	Support Engineer Officer

BEFORE ALAN MILES RUBEN, FACT-FINDER

Cleveland-Marshall College of Law
Cleveland State University
1801 Euclid Avenue
Cleveland, OH 44115
Tele: (216) 687-2310
Fax: (216) 687-6881

STATE EMPLOYMENT
RELATIONS BOARD
MAY 2 10 09 AM '95

BACKGROUND

The Cuyahoga County Child Support Enforcement Agency exercises statutory authority and responsibility for the determination of paternity and the collection and disbursement of child support payments for residents of Cuyahoga County.

The Agency was formed in 1987 from separate child support collection units which had previously been maintained in Cuyahoga County's Prosecutor's Office, Department of Human Services, and Domestic Relations and Juvenile Courts.

The Agency's some 159 payroll listed employees are distributed among thirteen classifications: Support Officer 1; Support Officer 2; Word Processing Specialist 1; Word Processing Specialist 2; Investigator 2; Investigator 3; Clerk 1; Clerical Specialist; Data Processor 2; Data Processor 3; Mail Clerk/Messenger; Payments Processor 1 and Payments Processor 2. These employees form a bargaining unit which is exclusively represented for collective bargaining purposes by the Truck Drivers Union Local 407, International Brotherhood of Teamsters, pursuant to certification issued on May 25, 1994.

The parties entered into their first Collective Bargaining Agreement as of January 1, 1994, for an initial term of three years. However, the Contract provided that:

"There shall be a wage re-opener on the subject of wages only for 1996. The parties shall convene negotiations sixty days (November 1, 1995) prior to the expiration of this agreement."

The parties did not meet to engage in wage determination bargaining until January 10, 1996. Although they continued to negotiate over the wage re-opener on January 25, 1996 and March 6, 1996, agreement could not be reached and impasse was declared.

Meanwhile, on December 6, 1995, in accordance with the statutory requirement, the undersigned was appointed Fact-Finder by the State Employment Relations Board.

In accordance with Ohio Administrative Code 4117-0-05 (G), the parties agreed to extend the Labor Agreement and the statutory fact-finding period until April 30, 1996.

At the direction of the parties a fact-finding hearing was scheduled for April 8, 1996 at the Agency's offices in Cleveland, Ohio.

Timely in advance of the hearing the parties provided the Fact-Finder with the statements required by Ohio Administrative Code 4117-9-05 (F).

Preceding the Fact-Finding process, the Fact-Finder unsuccessfully attempted mediation.

At the evidentiary hearing the County offered a "3% general across the board wage adjustment," to become effective upon ratification of its proposal.

In justification of its position the County introduced a schedule of the present starting wage rates for all thirteen bargaining unit classifications, and a list of the other bargaining units which had agreed to the same or a similar wage increase for 1996.

The Union proposed an "8% across the board wage increase" retroactive to January 1, 1996.

In support of its demand the Union introduced the Bench Mark Report of the State Employment Relations Board Clearinghouse as of January 10, 1996, which portrayed the entry level and top level annual salaries of Clerical Specialist and Clerk classified employees for the Cuyahoga County Department of Human Services and for the Departments of Human Services and Child Support Enforcement Agencies in other Counties. In conjunction with this comparative data the Union submitted a schedule of the actual hourly wage rates for all bargaining unit employees.

The Union also offered a January 3, 1996 State Employment Relations Board Clearinghouse Report on Ohio public sector collectively bargained wages increases and wage equivalent economic benefits for 1995.

Turning to productivity measures, the Union presented evidence of the exemplary performance of members of the bargaining unit in collecting child support payments and in effecting innovations designed to make the Agency more efficient and effective.

Finally, Union introduced evidence that "the County was recovering nicely from the SAFE fiasco and would be operating under budget surpluses in 1996 and 1997."

The parties jointly submitted the subsisting 1994 Collective Bargaining Agreement and the Fact-Finder's Report which preceded the execution of that initial Agreement.

At the request of the Fact-Finder the Agency provided information on the funding sources for the Agency including Federal and State incentives, the State allocation and the assessment fee or "poundage" for 1995 and the first quarter of 1996.

With receipt of this information on April 23, 1996, the Fact-Finder declared the hearing closed.

DISCUSSION

The sole issue before the Fact-Finder is the amount of an across-the-board increase in wages which 159 classified clerical and investigatory specialists, who coordinate and administer the paternity determination and child support collection functions of the Agency, should receive in calendar year 1996.

The parties' initial, immediately preceding Collective Bargaining Agreement which is scheduled to expire on December 31, 1996, was not executed until 1995, but was made retroactively effective to January 1, 1994. The Contract was entered into following the recommendations of a Fact-Finder for resolution of a variety of issues.

As to wages, the Fact-Finder recommended:

"Wage rates will be increased by 3% retroactive to January 1, 1994. An additional 2% increase will be made effective October 1, 1994. There is no increase in wage rates for 1995. Wages will be re-opened for 1996."

The Fact-Finder noted that the non-bargaining unit employees had received a 3% wage increase retroactively

effective as of January 1, 1994, and an additional 2% increase effective October 1, 1994, and that other County bargaining units had received wage adjustments averaging 3.09% and ranging from 1.5% to 4.5%. He concluded that bargaining unit members should be treated no less favorably than the non-organized employees, particularly since "the different funding sources for CSEA shield to some degree this agency from complete dependence on the County General Fund."

The Fact-Finder's recommendation for a wage freeze for 1995 was prompted by revelations that the County had lost well over \$100 million dollars because of interest rate speculations by the County Treasurer.

The Fact-Finder accordingly wrote:

"On the basis of the information presented, the Factfinder concludes that the county has legitimate, serious financial problems that bear significantly on the economic issues in collective bargaining. As a result of this financial crisis, the county states that it has gotten wage freezes from every union in 1995. This statement was not contradicted by the union. The outlook for 1996 is uncertain. The full impact of the SAFE collapse has not been ascertained. The Factfinder feels that this uncertainty makes any projections as to the county's financial situation in 1996 very speculative."

....

"For 1995, the Factfinder notes that the county has secured wage freezes in all agreements either negotiated to begin in 1995 or which had wage re-openers in 1995. The county has had to impose across the board budget cuts in 1995, and that has applied to CSEA. The agency has lost its general fund subsidy for 1995 and for the next three years. The Factfinder feels that

no wage increase in 1995 should be recommended for this unit as well."

"Given the uncertainty surrounding the county's financial situation, the Factfinder feels the best course to follow for 1996 is a wage re-opener. Hopefully, by then, the financial status of the county will have become more settled, and wages can be re-visited with a more optimistic outcome for employees."

The recommendation of the Fact-Finder was thereafter adopted by the parties and incorporated into the present Collective Bargaining Agreement:

"ARTICLE 35 - WAGES

"Wage increases during the term of this contract shall be as follows:

"1994 All current bargaining unit employees shall receive a 3% increase retroactive to January 1, 1994.

"All current bargaining unit employees shall receive an additional 2% increase retroactive to October 1, 1994.

"1995 There shall be an across the board wage freeze for 1995.

"1996 There shall be a wage re-opener on the subject of wages only for 1996. The parties shall convene negotiation sixty days (November 1, 1995) prior to the expiration of this agreement."

In seeking an 8% wage increase for 1996 the Union underscores the fact that it did without any adjustment in 1995. The County rejoins that the Union had agreed to a wage increase of "zero" in 1995, and not that the adjustment for 1995 be deferred until the following year.

Further, the County points out that most other, if not all, County employees had accepted a wage freeze for 1995 and

are in the same boat as members of the instant unit. The County implemented a 3% wage increase for its non-bargaining unit employees on January 1, 1996, and pursuant to what it describes as "pattern bargaining," has offered the same 3%, or even a lesser percentage wage increase for 1996 to each of the other nineteen units with which wage bargaining has taken place. Ten of those units have accepted the 3% offer for 1996, and one, the Central Services Trade, received only a 2.8% increase. On the other hand, employees represented by the Nursing Home Local 293 rejected the County's offer and proceeded to Fact-Finding. The Fact-Finder's recommendation of a 5% increase for 1996 was, however, rejected.

The Fact-Finder understands the County's position, but neither the universal acceptance of a 1995 wage freeze nor the spreading acceptance of the County's 1996 offer for a 3% wage increase disables the Union from contending that the present wages of bargaining unit members are so significantly "out-of-line" that the County's offer is not adequate or fair.

The County's position would have greater cogency if all similarly situated County employees were in positions of relative equality.

That does not appear to be the case.

The Union points out that the "Clerical Specialist" position at the Agency entails a starting salary of \$14,560.00, and the average Clerical Specialist earns only \$15,584.00. In contrast the position of "Clerical Specialist" in the County's Department of Human Services carries an entry

level wage of \$19,677.00 which rises in four-steps to \$21,632.00.

So too, the "Clerk" position at the Agency has a beginning salary of \$14,144.00. The comparable Clerk position at the Cuyahoga County Human Services Department commands an entry level salary of \$16,110.00 and rises to \$18,720.00.

No explanation or justification of the difference in compensation was offered at the hearing.

The Fact-Finder sees no merit in the uniform treatment of unequally situated employees.

The compensation of Agency employees also seems out-of-line with what counties comparable to Cuyahoga offer.

The starting salary of the Clerical Specialist position at the Franklin County Children's Services Board is \$17,389.00, and increases in fifteen-steps to \$28,600.00. At the Franklin County Human Services Department the entry level wage for this classification is \$18,495.00, and climbs in six-steps to \$21,701.00.

At the Hamilton County Human Services Department, the Clerical Specialist job starts at \$16,827.00 and increases in six-steps to \$19,781.00. Moreover, the Clerk position in the same Department begins at \$15,059.00 and increases in five-steps to \$17,098.00.

These comparative data, of course, do not tell the whole story and a more comprehensive examination of the wage structure of the bargaining unit employees is required.

The current entry level rates for the thirteen positions in the bargaining unit are set forth below:

Cuyahoga CSEA Entry Level Rates for
Bargaining Unit Positions as of 4/8/96:

<u>Positions</u>	<u>Hourly Rate</u>	<u>Annual Salary</u>
Clerk 1	\$ 6.80	\$14,144.00
Clerical Specialist	\$ 7.00	\$14,560.00
Word Proc. 1	\$ 7.52	\$15,641.60
Data Proc. 2	\$ 7.52	\$15,641.60
Payments Proc. 1	\$ 7.52	\$15,641.60
Mail Clerk	\$ 7.52	\$15,641.60
Word Processor 2	\$ 8.06	\$16,764.80
Data Processor 3	\$ 8.06	\$16,764.80
Payments Proc. 2	\$ 8.06	\$16,764.80
Investigator 2	\$ 9.05	\$18,824.00
Investigator 3	\$ 9.60	\$19,968.00
Support Officer 1	\$ 9.60	\$19,968.00
Support Officer 2	\$12.51	\$26,020.80

The distribution of employees among the classifications and steps within each classification reveals that the median hourly rate is \$9.80 representing an annual salary \$20,394.00. But, the range of compensation extends from the bottom rate of \$6.80 an hour or \$14,144.00 per year, which seven employees earn, to the highest rate of \$16.44 an hour or \$34,195.00 per year, which one employee makes.

Employees at the lower end of the range are particularly disadvantaged.

Indeed, thirty-two employees, one-fifth of the bargaining unit, are eligible to receive food stamps if they support a family of three, since they earn less than the permitted maximum of \$16,368.00 a year.

Fourteen more bargaining unit members, making a total which is close to one-third of the work force, are eligible to

receive food stamps if they support a family unit of four, (e.g., a spouse and two children or three minor children), since they earn less than \$19,704.00, the current eligibility limit.

The jobs offered by the Agency are neither substitutes for welfare entitlements nor "trainee" jobs designed to facilitate transition of the unemployed into public or private sector "permanent" positions. These jobs, on the contrary, are career employment opportunities, and the Fact-Finder can find no justification for compensation levels which require the Agency's full-time employees to seek welfare benefits.

Another factor which the Fact-Finder is obliged to consider is the very substantial increase in Agency productivity to which bargaining unit personnel, as a group, have contributed. They are entitled to have their efforts recognized. Collections have risen every year since 1989, from \$77,794,000.00 in that year, to \$133,291,000.00 in 1994.

A memorandum dated June 6, 1995 noted an 8% increase in child support payments for the first five months of 1995. Not only did the aggregate amount increase, but so did the number of cases in which some payment had been made.

Every other statistical measure confirms the success of Agency staff efforts.

Paternity had been established in 500 more cases over the most recent twelve month period.

In 1994, the number of enforcement actions increased by 28% over the previous year, and by 114% over the previous five

years. The volume of typed documents increased by 38% in 1994 over 1993 and by 164% compared with 1989.

The monthly summary of "Case Load Size, Outcome Measures and Performance Ratios for the Cuyahoga County CSEA" for September, 1995, the last month for which data was submitted, revealed that the number of cases for that month had increased by over 2,500 from a year earlier, collections had increased by some 2.2 million dollars and, for the nine months, ending on September 30th, total collections had increased by over 10 million dollars as compared with the same period in 1994.

Also worthy of recognition was the selection of the Agency's in-hospital liaison program as a semi-finalist in the 1996 "Innovations in American Government Awards Program." As reported in a March 15, 1996 memorandum, the Agency was one of only one hundred such semi-finalists out of an original pool of more than 1500 applicants.

Still another element in wage determination to which the Fact-Finder must pay attention is changes in the cost-of-living.

Over the 1995-1996 biennium, the barometer of inflation, the consumer price index, is expected to increase between 4.5 and 6%. In consequence of the 1995 wage freeze, if 1996 compensation were to increase by no more than the 3% proposed by the County, bargaining unit members would actually suffer a loss in real income over the two year period.

But, what adjustments can the County afford to make?

Although the County does not advance an "inability to pay" argument at this time, it does maintain that it must be prudent in its expenditures and build back, as a safety margin, a surplus in its General Fund.

While not insensitive to this concern, and the potential fiscal problems the adoption of the 8% increase sought by the Union might make, the Fact-Finder must also take into consideration the rather unique financial position of the Cuyahoga County Child Support Enforcement Agency. First, the Federal Government reimburses the County for 66% of net salary expenditures. The County also receives through State allocation procedures a share of so-called "Federal Incentive Funds" which are distributed according to a formula which takes into account collections on Aid to Dependent Children (A.D.C.) and non-A.D.C. cases. The State similarly provides a financial incentive which is allocated to Counties based upon the same performance factors as the Federal incentive. Furthermore, the State makes an allocation to the County pursuant to a defined series of statistical measures to defray the non-federal share of Agency expenses. Finally, in addition to these funding sources, there is a so-called "assessment fee" or "poundage" of up to 2% of the amounts collected which is paid to the County to help defray the cost of the collecting and distributing the support funds.

For calendar year 1995 these transfer payments and non-County generated receipts, including interest earned, amounted

to \$15,773,000.00 which was only some \$458,000.00 less than the Agency's 1995 approved budget.

Thus, funding for the Agency's operations is largely independent of allocations from the County's General Fund.

While grant of the 8% wage increase demanded by the Union might be imprudent, the County is clearly able to afford significantly more than the 3% increase it has offered.

FINDINGS AND RECOMMENDATIONS

In making his recommendations the Fact-Finder has been guided by the factors set forth in O.R.C. Section 4117.14 (C)(4)(e), and Ohio Administrative Code, 4117-9-05(K) namely:

" (a) Past collectively bargained agreements, if any, between the parties;

(b) Comparison of the unresolved issues relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

(c) 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;

(d) The lawful authority of the public employer;

(e) The stipulations of the parties;

(f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment."

Reflecting thoughtfully upon the erosion of the bargaining unit members' real income over the past two years

by reason of the wage freeze, the relatively lower wages they receive in comparison to employees in similar positions in other Departments in Cuyahoga County and in other comparable Counties, the increase in their productivity and hence in revenue generation through Federal and State incentives and poundage fees, and the County's present fiscal condition the Fact-Finder finds that bargaining unit members are entitled to, and recommends that they receive, a wage increase of 6% retroactive to January 1, 1996.

Findings and recommendations issued this 30th day of April, 1996, at Cleveland, Ohio.


Alan Miles Ruben
Fact-Finder

AMR:ljq

APR 2 10 09 AM '96
RECEIVED
CITY OF CLEVELAND