

STATE EMPLOYMENT
RELATIONS BOARD

DEC 2 3 43 PM '96

VOLUNTARY ARBITRATION PROCEEDINGS
STATE EMPLOYMENT RELATIONS BOARD
CASE NO. 96-MED-09-0709

CITY OF WOOSTER, OHIO :
 :
 The Employer :
 :
 -and- : FACT-FINDER'S AWARD
 :
 WOOSTER FIRE FIGHTERS UNION :
 :
 The Union :

APPEARANCES

For the Employer:

Richard R. Benson, Jr., Director of Law
Kathleen Gallo, Personnel Manager
James Dyers, Director of Finance
Vic Haugh, Fire Chief
Dan Bishop, Assistant Fire Chief

For the Union:

Thomas Hanculak, Attorney
Barbara Varanese, Financial Consultant
William Mueller, Spokesperson
Joseph Linz, Bargaining Committee
Scott E. Bertsch, Bargaining Committee
Christopher F. Green, Bargaining Committee
Ronald E. Rose, Bargaining Committee
William C. Brown, Local Union President
Rhodes Walter, Bargaining Committee
Les Teichmer, Bargaining Committee

MARVIN J. FELDMAN
Fact-Finder
1104 The Superior Building
815 Superior Avenue, N.E.
Cleveland, Ohio 44114
216/781-6100

I. SUBMISSION

This matter came before this fact-finder pursuant to the Ohio Revised Code and the rules of the State Employment Relations Board. The parties in this matter met at the conference facility of the employer in Wooster, Ohio, on October 25, 1996, November 19, 1996 and November 25, 1996, whereat the parties presented their evidence in both witness and document form. The parties stipulated and agreed that this matter was properly before the fact-finder; that the witnesses should be neither sworn nor sequestered and that post hearing briefs would not be filed. It was upon the evidence and argument that this matter was heard and submitted and that this opinion and award was thereafter rendered.

II. STATEMENT OF FACTS

At the outset, the parties agreed that the following items were to be heard and decided by the fact-finder.

1. A dental/optical increase.
2. Payment of holidays at increased rate.
3. Wages.
4. Payment of sick leave for parent.
5. An increase in the amount of sick leave.
6. Acting pay for more than four hours.
7. EMTI and EMTP wages.

Issue one, dental/optical increase and issue two, payment of holidays at increased rate were settled by the parties. The issue of whether or not sick leave should include the right to sick leave when a parent was ill was also agreed to by the parties. The bargaining unit

sought an increase in sick leave. The bargaining unit was already receiving twenty four hours. The bargaining unit based their request upon the fact that other units in the city received three shifts of sick leave. The firemen argued that they work twenty-four hours on and forty-eight hours off on occasion or twenty-four hours on and twenty-four hours off on other occasions and that therefore a twenty-four hour period, i.e., the same as three shifts for other units should increase to three shifts of twenty-four hours each. The employer rejected that request on the basis that that in fact would really be increasing sick leave to seventy-two hours (3 X 24). Comparables failed to reveal other bargaining units with seventy-two hours of sick time.

Also involved in this particular matter was pay increments for EMTI and EMTP. The evidence revealed that the bargaining unit at this particular time were never assigned or scheduled for EMTI and EMTP work and that therefore according to the employer, a wage or wage increment for those classifications were unnecessary. The bargaining unit on the other hand indicated and stated that they used their certified training skills when calls were made and that therefore they should be paid for those skills. Upon inspection of the classifications it was noted that there was no scheduling of EMTI's or EMPT's whatsoever.

The issue of wages in this particular matter was very interesting indeed. The bargaining unit requested for the year 1996 a 3.5 percent increase, for 1997 a 20.65 percent increase and for 1998 a 5.5 percent increase. Those numbers in the aggregate revealed a request by the bargaining unit of 29.65 percent increase over a period of three years. The employer on the other hand offered a 2.5 percent increase for 1996,

a 3 percent increase for 1997 and a 4 percent increase for 1998. That in the aggregate amounted to an offer of 9.5 percent. Thus, when compared to each other we find that the percent increase offered by the employer was approximately 30 percent of that requested by the union. With that great a difference between the two amounts, it was difficult indeed to mediate a settlement as to wages. An increase of some 30 percent as requested by the bargaining unit was triggered by the employer as simply unrealistic.

The City of Wooster, Ohio, is not located in a large metropolitan area. Much of the comparables used by the bargaining unit were those of suburbs of Cleveland. Greater Cleveland has approximately three million people living within the confines of Cuyahoga and near adjacent counties. Wooster on the other hand is a rural city with its own tax base not dependent upon a large industrial complex like Cleveland. The city maintained that it is quite impractical to compare Wooster to those suburbs in Cuyahoga County surrounding Cleveland.

There was evidence placed into the record of the ability of the city to afford the request of the union. The city did place into evidence and into the record information which revealed that the city could afford a 9.5 percent increase over the three years that they offered. It might be noted further that several of the contracts of other unions with the city demanded a "me too" result. In other words, if the fire department, as in this matter, received a large increase or an increase greater than the other bargaining units had or some greater benefit, then in that event the city would be responsible to amend the other public employee contract so as to include any special benefit or

wage given to the fire fighter's bargaining unit. Thus the budgetary computation of the wages requested by the bargaining unit was not merely some 30 percent but also included a rollup of approximately 1/3 of that number and the computation of that number and the computation as to what the "me too" clause would cost in the other bargaining units.

It might be noted that the bargaining unit based their comparables upon the number of runs, the type of exposure that it had and the needs of a growing city with additional roads and greater coverage. The union also used the managerial costs when determining comparables. Based upon all of that information the fact-finder reached an opinion in this particular matter.

III. OPINION AND DISCUSSION

The dental/optical allowance is found to be reasonable and the parties tentatively agreed to its language and it stated as follows:

"ARTICLE XXIX DENTAL/OPTICAL ALLOWANCE

Section 1. The Employer shall grant an allowance to each employee that can be used for dental or optical care in an amount not to exceed four hundred dollars (\$400.00) in each contract year. Any unused balance of the \$400.00 for each contract year will be credited to the following year, provided that such unused balance must be expended by June 30 of the following year, after which it will be forfeited. Payment shall be made to the employee upon submission to the Personnel Division a statement for services rendered, together with a completed Dental/Optical Allowance Form. This allowance may be used for any dental/optical care needed by the employee or members of his/her family."

The fact-finder on the issue of increased rate for holiday pay

found that the parties had entered into a tentative agreement which the fact-finder finds to be just and reasonable. That particular clause revealed the following:

"Article XXI Holidays

Section 3. Employees, except Fire Inspector(s), desiring to take time off in lieu of holiday pay may be awarded ten (10) work days off, with pay, in addition to his/her vacation allowance. The four (4) personal days shall be credited to the employee on the first day of January. The use of such days must be approved by the Chief whose approval shall not be unreasonably withheld.

Section 4. Employees shall receive payment for the above unused holiday or unused personal days on the last pay in November.

In 1996, Employees shall receive payment for the above holidays and unused personal days in the last pay in November, calculated according to the regular hourly wage each employee was making as of November 10, 1996. In subsequent years, employees shall receive payment for the above holidays or unused personal days on the last pay in November, calculated according to the regular hourly wage each employee was making at the time each holiday occurs."

The fact-finder also found it reasonable and fair to include a parent in the sick leave clause. That addition should be made to the contract.

The request for seventy-two hours of sick leave or three twenty-four hour periods as requested by the bargaining unit is found to be out of line especially when compared to the other bargaining unit agreements which allowed twenty-four hours off for sick leave. The amount of sick leave time therefore shall remain as it was under the prior contract.

The bargaining unit sought pay for those acting as a higher ranked person for more than four hours of a shift. It appeared that the employer had denied such activity prior. However, the evidence in this particular case revealed that there were two fire stations and only two lieutenants. It may be that from time to time a member of the bargaining unit may serve as an officer. When that occasion occurred it is only fair to pay that particular person, if in fact that particular person served in the higher rank for a period of more than four hours. Such language therefore should be made part of the contract entered into by and between the parties.

The evidence revealed that there was no classification that was scheduled under the name of EMTI or EMTP. The bargaining unit sought a wage increment for each of those classifications. Since the classifications do not yet exist for scheduling and assignment such request is hereby denied. However, when the employer deems it necessary to place into use an EMTI or EMTP unit the employer shall bargain with the union and the union shall bargain with the employer, both in good faith with each other to determine the wage of that unit and its personnel. Establishing a wage or increment presently for EMTI or EMTP is unnecessary when in fact there is no unit so scheduled.

This fact-finder has reviewed the voluminous exhibits placed into the record by the parties. Comparables near and far were considered. It is apparent that this bargaining unit worked a total of fifty-six hours per week; that it contains forty people including captains, lieutenants and fire fighters; that it is located in a somewhat rural community with a growing industrial base and growing exposures; that the

city is not pleading poverty but has a sufficient treasury to manage a wage increase that is just and reasonable and that the City of Wooster has not had turmoil in its union working ranks during the course of its history. This fact-finder has given careful consideration to the fire fighters and has given careful consideration to the arguments of the employer and has noted the outside parameters that were indicated by each party in their proposals. It might also be noted that in 1995, when the city was strapped for funds, the bargaining unit herein received a zero increase.

Based upon all of these items and the totality of evidence it is hereby recommended that the employee bargaining unit involved herein shall receive 12 percent over a period of three years as follows:

1. 1996 -- 3.5 percent increase on the current base.
2. 1997 -- 4.5 percent increase on the new base.
3. 1998 -- 4 percent increase on the new base.

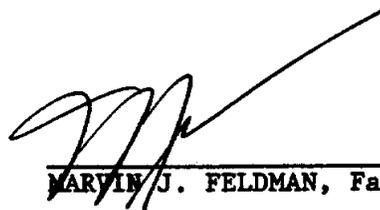
This increase would apply to all classes of fire fighters, fire inspector, lieutenant and captain. While there may be a bi-weekly pay period, nonetheless the yearly salary should be increased in the percentage as indicated.

Based upon all of the evidence in this case it appeared that the finding of this fact-finder is fair under the circumstances revealed.

IV. AWARD

It becomes the order of the fact-finder that the indications stated

hereinabove shall become his order.



MARVIN J. FELDMAN, Fact-Finder

Made and entered
this 29th day
of November 1996.