

STATE EMPLOYMENT  
RELATIONS BOARD  
Nov 16 9 48 AM '98

STATE EMPLOYMENT RELATIONS BOARD  
CASE NO. 98-MED-03-0288

PORTAGE COUNTY (OHIO) ENGINEER :  
 :  
 The Employer :  
 :  
 -and- : FACT FINDER'S  
 : OPINION AND AWARD  
 IBT LOCAL 436 :  
 :  
 The Union :

APPEARANCES

For the Employer:

John K. Alberty, Attorney  
Ronald Manson, Assistant County Engineer  
Hank T. Gibson, Office Administrator  
Michael Morozzi, County Engineer

For the Union:

Christopher J. Pavone, Business Representative  
Wendall Neiswanger, Shop Steward and Negotiating Committee  
Rick Moledor, Negotiating Committee  
Don Bello, Negotiating Committee

MARVIN J. FELDMAN  
Attorney-Fact Finder  
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## I. SUBMISSION

This matter came before this Fact Finder pursuant to the terms of the collective bargaining agreement (expired) and the statutory laws of the State of Ohio, the parties having failed resolve prior to the fact finding hearings. The mediation and hearing in this matter was scheduled and conducted on November 4, 1998, at the Holiday Inn, Brimfield, Ohio. The parties stipulated and agreed that this matter was properly before the fact finder; that witnesses, if any, should be sworn but not sequestered and that post hearing briefs would not be filed. It was upon the facts and evidence and argument that this matter was heard and submitted and that this opinion and award was thereafter written.

## II. AGENDA

The agenda included the following open issues between the parties. They were listed as follows:

1. Wages
2. Premium pay for "block work".
3. Tool allowance for:
  - i. Welders
  - ii. Mechanics
4. Retroactivity of wages to July 18, 1998.
5. Leave of Absence Documentation form.
6. Remove the word "severe" from Article XII, § 3 (Page 16) of the previous contract.
7. Alternate Dispute Resolution procedure.
8. Hospitalization premium contribution.

No other issues were made part of the fact finder's agenda. Some of the issues were withdrawn, some were settled and only one, wages, was left for the fact finder to decide.

### III. WITHDRAWN ISSUES

1. The issue of premium pay for block work was withdrawn, by the parties at open hearing and the parties agreed to allow the language of the contract ending July 18, 1998, to remain as is in that regard. The fact finder agreed that that result was fair, just and proper.

2. The union withdrew at open hearing the issue of retroactivity of wages from the table. The union agreed that the new contract begin with even date of this fact finder's award and that the new wages begin on that date. The fact finder agreed that that result was fair, just and proper.

3. It was determined by the evidence that in fact the issue of hospitalization cost contribution by the bargaining unit had been withdrawn prior by the employer and was not, therefore a viable issue, even in modified form in this matter. The fact finder agreed that the result was fair, just and proper.

4. The employer sought a proposal limiting the right of the union to exercise their statutory activity under ORC 4117. The employer understood that the fact finder had no such authority to rule upon that matter and withdrew the provision request in open hearing. The fact finder finds that the result was fair, just and proper.

#### IV. SETTLED ISSUES

1. The result of tool allowances for welders and mechanics were settled. It was agreed that the allowance for mechanics be \$270.00 in the first year of the contract; \$285.00 in the second year of the contract and \$300.00 in the third year of the contract. The allowance for welders shall be \$200.00 in the first year of the contract; \$200.00 in the second year of the contract and \$200.00 in the third year of the contract. The fact finder finds that the settlement was fair, just and proper.

2. "The Leave of Absence with Pay" was settled and the parties agreed that the article shall be changed to read as follows:

"To notify the Engineer of absence, an employee must notify the office at least one half (1/2) hour before his regular start time. Employees holding the Watchman classification are required to notify the office of absence one (1) hour before the start of their shift.

Before an employee is paid for sick leave, that employee must request approval by completing an Application for Paid Leave and turn in this request form no later than the end of the next regular day worked. A failure to do so shall result in a denial of the employee's leave request. If the duration of such absence is for more than two (2) consecutive days, the employee shall be required to submit a physician's statement indicating the nature of the illness or injury."

The fact finder finds that that result was fair, just and proper.

3. Article XII, § 3, was in conflict between the parties. The parties settled by agreeing to the following language:

"Section 3. Progressive discipline shall be applied by the Engineer, taking into account seniority, the nature of the violation, the employee's record of grievable past discipline and the employee's record of performance, attendance and conduct. Discipline will generally be applied in a progressive manner."

The fact finder finds that that settlement was fair, just and proper.

#### V. WAGES

The only issue that could not be settled was wages. The parties were close. The employer offered 4% the first year and 3% in each of the second and third years with retroactivity and the Highway Worker I receiving no increase. The union said it would settle on 4%, 3%, 3%, for the first year and second and third year without retroactivity but wanted every employee covered. The union also wanted twelve cents per hour in addition to kick in immediately.

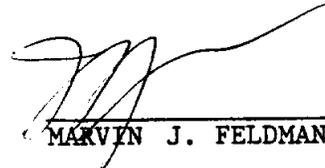
A determination of the comparables were made by this fact finder with Columbiana County, Richland County, Summit County, Medina County, Cuyahoga County and Lorain County. The comparables placed into the record revealed that a 4% wage increase for the first year, a 3% wage increase for the second year and an additional 4% wage increase for the third year for all employees---all without retroactivity and without a

twelve cent increase was fair, just and proper.

There was no argument of the employer as to the inability to pay the wage raise and the inability to administer it. The increase awarded is well within the perimeters of such increases usually ordered and is well within the perimeters of previously awarded wages.

VI. AWARD

The fact finder's award is set out in full above and awards all matters herein as stated. The contract shall begin for a period of three years on even date of this award with a 4% increase in wage for the first year, a 3% increase in wage for the second year and a 4% wage increase for the third year for all employees.

  
MARVIN J. FELDMAN, Fact-Finder

Made and entered  
this 12th day  
of November, 1998.

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November 12, 1998

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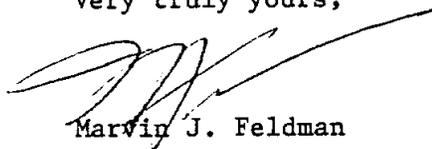
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RE: SERB Case No. 98-MED-03-0288

Gentlemen:

Enclosed please find an Opinion and Award relevant to the above captioned matter as well as a copy of my fee bill.

Very truly yours,



Marvin J. Feldman

MJF/dwr

enclosure