
In the Matter of the

Case No. 412-252

MILWAUKEE DEPUTY SHERIFFS'
ASSOCIATION,

Decision No. 11557-A

Petitioner,

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

and

MILWAUKEE COUNTY,

FILED
FEB 5 1974
ROBERT O. UEHLING
Clerk of Supreme Court
MADISON, WISCONSINRespondent. .

FILED
DEC 31 1973
Francis X. McCormack

The matter having come before this court on a motion by Petitioner, MILWAUKEE DEPUTY SHERIFFS' ASSOCIATION, to modify or vacate an arbitration award dictating terms of employment for 1973 and 1974 between Petitioner, MILWAUKEE DEPUTY SHERIFFS' ASSOCIATION, and Respondent, MILWAUKEE COUNTY, and the parties having filed a stipulated statement of facts with this Court, and the Court being duly advised in the premises, and upon consideration of briefs and oral arguments,

This Court makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Court incorporates by reference and adopts the stipulation of facts entered into between Petitioner and Respondent and made a part of the record in this matter.
2. That Petitioner timely objected to the consideration by the arbitrator of the two-year provision in the offer of MILWAUKEE COUNTY.

CONCLUSIONS OF LAW

1. That the legislative intent of Sec. 111.77, Wis.Stats., is to provide for meaningful and productive negotiations prior to a reliance on the arbitration machinery proposed in the Wisconsin Statutes.
2. That the legislative intent would be frustrated, and litigation and labor strife with governmental municipalities in this State would occur if the five-day rule of Sec. 111.77 were to be interpreted to allow either party to make substantial change to anything but a final written offer.
3. That the policy embodied in Sec. 111.77 can only be furthered by substantial compliance with the clear wording of the Statute.
4. That those substantive portions of an amended offer which affect the substantive rights of the other party and which relate to subject matter not considered in the original offers cannot be considered by or ordered included as part of a final arbitration award under Sec. 111.77, Wis.Stats.
5. That a timely objection to the inclusion of substantive changes in a final offer under Sec. 111.77 is not waived by continuing to participate in arbitration hearings.
6. That the addition of a two-year term into the written offer submitted to the arbitrator by Respondent, MILWAUKEE COUNTY, was illegal and contrary to the spirit and letter of Section 111.77, Wis.Stats.

7. That this Court is vested with statutory authority to effectuate the policies of the Municipal Employment Relations Act by vacating or modifying an arbitration award resulting from non-compliance with the express terms of that Act by either party.

WHEREFORE, it is hereby ordered:

1. That that portion of the arbitrator's award (Case No. LI 16282 MIA-25, Decision No. 11557) dated May 7, 1973, which relates to employment terms of the Milwaukee County Deputy Sheriff for 1974 is hereby vacated and as to all other terms, is hereby affirmed.

2. That the parties enter into good faith collective bargaining efforts to negotiate employment terms for the year 1974.

3. That no costs are to be awarded to either party.

Dated this 31st day of December, 1973, at Milwaukee, Wisconsin.

BY THE COURT:

R. M. Curley /s/

ROBERT M. CURLEY

Circuit Judge

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