

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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CITY OF SUPERIOR, a Municipal Corporation,  
Complainant,  
vs.  
LOCAL NO. 74, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS,  
Respondent.  
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Case XXVIII  
No. 17620 MP-327  
Decision No. 12537-A

Appearances:

Mr. Charles Ackerman, Consultant, appearing on behalf of the Complainant.  
Mr. Edward Durkin, International Vice President, appearing on behalf of the Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Complaint of prohibited practices having been filed with the Wisconsin Employment Relations Commission in the above entitled matter; and hearing in the matter having been conducted by Hearing Officer Herman Torosian on April 16, 1974, at Superior, Wisconsin; and the Commission, having considered the evidence and arguments of Counsel and being fully advised in the premises, makes and issues the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. That the City of Superior, hereinafter referred to as the Complainant, is a municipal employer, having its offices at 1407 Hammond Avenue, Superior, Wisconsin, and that at all times material herein Charles Ackerman has been, and is, the Complainant's Labor Negotiator.

2. That Local No. 74, International Association of Fire Fighters, hereinafter referred to as the Respondent, is a labor organization, having its offices at 912 Central Avenue, Superior, Wisconsin; that, at all times material herein, said Respondent has been, and is, the exclusive collective bargaining representative of all non-supervisory fire fighter personnel in the employ of the Complainant; and that Leonard T. Rouse is the President of the Respondent.

3. That Respondent, prior to the commencement of negotiations with the Complainant, leading to a collective bargaining agreement to cover the wages, hours and working conditions of the non-supervisory fire fighter personnel in the employ of the Complainant for the year 1974, on July 10, 1973, in a letter, over the signature of Rouse, directed to Ackerman, identified twelve wage and fringe items, as well as matters relating to promotions, dues check-off, and fair-share agreement sought by the Respondent to be included in the 1974 collective bargaining agreement; and that said letter contained the following:

- "1. Forty (40) hour work week.
2. Pay raise - 20% wage increase per rank.
3. Improved hospitalization coverage.
4. Longevity plan.
5. Bonus for unused sick leave.
6. One hour off duty between regular shift and paid relief.
7. Time off for Union work schools and seminars.
8. Station maintenance.
9. Improved clothing allowance.
10. Pay differential for week-end work.
11. Improved vacation benefits.
12. Cost of living increase.

In addition to the above, the following contract language:

1. Promotions.

- A. Driver - All driver promotions will be by seniority.

- B. Vacancies for newly created positions - A notice shall be posted at all stations within thirty (30) days after the new position has been approved, and remain posted for a period of not less than two (2) weeks. The notice shall clearly state the application requirements, and outline of the job requirements, pay classifications applicable to the position, and/or any other information that would be applicable.

\* Note: The above requirements shall also apply to vacancies in existing positions.

- C. Job posting - Application forms shall be made available to all Firestations for newly created or existing positions. The Union will be furnished a copy of such notice. The employee selected, the Union and all other applicants will be advised of the selection to fill such vacancy by mail postmarked not later than forty-eight (48) hours after the selection is made.

2. Dues and Fair Share Agreement.

The Union, as the exclusive representative of all employees in the bargaining unit, will represent all such employees fairly and equally. All employees in the unit shall, as a condition of employment, be required to pay, as provided in this article, their proportionate share of the costs of representation by the Union. No employee shall be required to join the Union, but membership shall be made available to all employees who apply consistent with the Union constitution and by-laws. No employee shall be denied Union membership because of race, creed, color or sex.

The employer agrees that it will deduct from the earnings of all employees in the collective bargaining unit the amount set forth by the Union, such amount being the monthly dues uniformly required of all members, and pay said amount to the Treasurer of the Union on or before the end of the month following the month in which such deduction was made.

The City shall be held harmless in the event a dispute arises between the Union and an employee regarding the interpretation and/or application of this provision."

4. That on August 15, 1973, Rouse directed a letter to Ackerman, wherein the Respondent set forth in detail the twelve wage and fringe benefit proposals the Respondent desired to include in the 1974 collective bargaining agreement; 1/ and that on September 24, 1973, at a meeting between the parties, representatives of the Respondent offered to present Ackerman a new proposal in writing, dated September 21, 1973, which stated as follows:

"Local 74, Superior Firefighters, are willing to drop the following items; #1, #2, #3, #4, #9, #10, #12 from the original requests for 1974 if the City of Superior would consider acting favorably in accepting the following requests.

All contract language initially requested plus the following increases per rank.

		<u>Number of men in pos.</u>
Pipeman	\$50.	33
Drivers & Dispatchers	60.	14
Ass't Mech-Drivers	65.	3
Cpts. & 2 Inspects.	75.	14
Desk Capt.	80.	1
Master Mechanic	90.	1"

5. That Ackerman, at said September 24 meeting, refused to accept such written proposal; that, however, later that evening Ackerman visited Rouse at the latter's place of employment and accepted same from Rouse, and at the same time indicated to Rouse that he (Ackerman) would cost out such proposals and determine whether such proposals could form a basis for settlement; and that, however, Ackerman did not contact the Respondent with regard thereto.

6. That on October 24, 1973, the Respondent filed a petition with the Wisconsin Employment Relations Commission to initiate final and binding arbitration between the parties, pursuant to Section 111.77 of the Municipal Employment Relations Act; that on December 5, 1973, during the course of the informal investigation on the petition for arbitration, Ackerman offered the Respondent a wage increase of \$15.00 - \$15.00 - \$15.00, to be implemented in three periods of an eighteen month collective bargaining agreement; that in response to such offer, the Respondent offered a counter proposal, calling for a wage increase of \$35.00 - \$35.00 to be implemented in two periods of a one year agreement, and indicated a willingness to withdraw nearly all other cost items, provided the Complainant would accept such counter proposal; that the Complainant refused to accept such counter proposal; that thereupon the Respondent withdrew said counter proposal; and that the Commission on February 8, 1974, ordered, among other things, the impasse between the parties to final and binding arbitration and to file with the Commission and the Arbitrator appointed in the matter their final offers in existence as of October 24, 1973; that in

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1/ Such detailed proposals are attached hereto as Appendix "A".

response thereto the Respondent submitted, as its final offer for the purposes of the arbitration, its proposal set forth in paragraph 4 hereof; and that in the complaint filed herein the Complainant alleges that said proposal does not constitute the Respondent's final offer in existence as of October 24, 1973.

Upon the basis of the above and foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS OF LAW

1. That, since the offers of the Respondent, Local No. 74, International Association of Fire Fighters, proffered to the Complainant, City of Superior, on September 24 and December 5, 1973, were contingent on the Complainant's acceptance of same, and since the Complainant did not accept either of said offers, the unconditional proposal of the Respondent, made on July 10, 1973, and specified on August 15, 1973, constituted the Respondent's final offer in effect at the time that its petition for final and binding arbitration was filed within the meaning of Section 111.77(4)(b) of the Municipal Employment Relations Act.

2. That, therefore, by submitting its proposal made on July 10, 1973, and as detailed on August 15, 1973, with respect to wage and fringe benefit requests, as its final offer for the purposes of arbitration, the Respondent, Local No. 74, International Association of Fire Fighters, did not, and has not, refused to bargain collectively within the meaning of the Municipal Employment Relations Act.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

ORDER

IT IS ORDERED that the complaint filed in the instant proceeding be, and the same hereby is, dismissed.

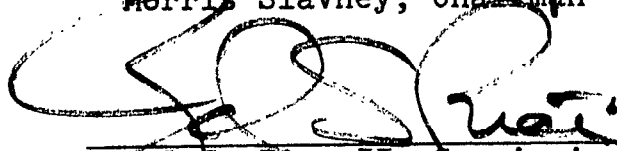
Given under our hands and seal at the  
City of Madison, Wisconsin, this 9th  
day of May, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

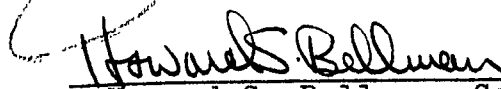
By



\_\_\_\_\_  
Morris Slavney, Chairman



\_\_\_\_\_  
Zel S. Rhee II, Commissioner



\_\_\_\_\_  
Howard S. Bellman, Commissioner

APPENDIX "A"

- "1. Forty (40) hour work week.
2. Pay raise 20% wage increase per rank.
3. Improved hospitalization coverage - to be increased to cover a semi-private room.

	<u>A Day Room</u>	<u>Single</u>	<u>Married</u>
Present plan	\$40.00	\$14.25	\$40.14
Proposed plan	\$50.00	\$16.59	\$46.10

4. Longevity plan - 3% after 5 years, 6% after 10 years, 9% after 15 years, 12% after 20 years. (based on anniversary date, percentage computed on base pay.)
5. Bonus for unused sick leave -
  - a. At retirement 1/2 unused sick leave for continued hospital Insurance Plan.
  - b. 1/2 unused sick leave in pay for Christmas bonus.
  - c. All unused sick leave in cash in case of death payable to beneficiary.
6. One hour off duty between regular shift and paid relief.
7. Time off for Union work schools and seminars - The City shall allow 56 hours leave with pay each year to any member designated by the Union to attend Union schools, seminars or functions. This leave time not to be cumulative.
8. Station Maintenance. It is the intent of Local #74 Firefighters Union to maintain a harmonious relationship with the trade unions in respecting work which directly belongs to the various professions to do otherwise would be a direct violation of union brotherhood, as well as a direct deviation from our alertness to respond to fires.

General house keeping and cleaning. As in the past years to date, general cleaning, dusting, mopping, cleaning windows, polishing, & wall washing are nonobjectionable as all the forementioned are necessary to maintain liveable quarters and although we are not custodians are willing to accept the duties as part of our care of quarters.

Care of grounds. Grass cutting and yard work, snowremoval be limited to fire department property only.

Painting - Limited maintenance of 1 room per year per station agreeable. No outside painting and building maintenance.

APPENDIX "A" (Continued)

\*NOTE - It is the goal of firefighters to be fully productive in fire related work such as actual fire suppression. Maintenance of fire apparatus and equipment, continuous training, pre-planning inspections, fire prevention inspection, public relations and education, to apply ourselves to non-fire business is in effect, short changing the public with less than total effectiveness as firefighters. This clause is therefore designed to maintain harmony with the trades as well as absolute devotion to public responsibility of constant readiness.

9. Clothing Allowance -
  - a. City to pay initial cost of complete uniform for each new man.
  - b. \$150.00 clothing allowance each year to maintain uniform.
10. Pay differential for week-end work - Shift differential for week-end (Saturday and Sunday) on duty \$.50 per hour.
11. Improved vacation benefits -
  - a. After one (1) anniversary year: two (2) weeks; after nine (9) years: three (3) weeks; after fifteen (15) years: four (4) weeks; after twenty (20) years: five (5) weeks.
  - b. Year around vacation privilege.
12. Cost of living increase -
  - Section 1. Effective with the first pay period following January 1, 1974 and semi annually thereafter during the term of this agreement, a cost of living adjustment, if applicable shall be paid.
  - Section 2. Such adjustment shall be based on percentage changes, if any, in the Consumer Price Index, New Series, for the Minneapolis-St. Paul area of the Bureau of Labor Statistics, U. S. Department of Labor (1967) table #3, (hereinafter referred to as the C.P.I.).
  - Section 3. If, as of July 1973, the CPI shall have risen to a level which is a full .4 of 1% or more higher than the level of January 1973, with the beginning of the first pay period after January 1, 1974, all employees shall receive a cost of living allowance of thirty-five dollars (\$35.00) per year for each full .4 of 1% by which the CPI exceeds the level of January 1973. The cost of living allowance, therefore, shall be paid monthly during the first six (6) months of the calendar year 1974, for the increase in the CPI between January 1973 and July 1973. The cost of living difference shall be again computed between July 1973 and January 1974 and the cost of living allowance, figured on the same basis, that is, thirty-five dollars (\$35.00) per year for each full .4 of 1%, shall be paid monthly beginning with the first pay period after June 1, 1974 through December 31, 1974.

APPENDIX "A" (Continued)

- Section 4. If after an allowance has been in effect pursuant to Section 3, the CPI shall show a decrease, thirty-five dollars (\$35.00) shall be deducted from the allowance for each full .4 of 1% decrease in the CPI below the level which the CPI was required to reach in order to earn the last previous raise of allowance.
- Section 5. The cost of living allowance payable at any time shall be in addition to, and irrespective of, the computed base salary rate otherwise payable under the terms of this agreement, but shall be added following such salary increase provided in this Agreement. No reductions shall be made in such salary rate.
- Section 6. This cost of living allowance will be computed and paid, in the manner pursuant to Section 3, beyond December 31, 1974, if this contract has not been replaced by a new negotiated contract. That is on the first pay period following January 1 and June 1. The cost of living allowance will be computed and paid upon the same monthly basis as in this contract."