

BEFORE THE ARBITRATOR

In the Matter of the Arbitration  
of a Dispute Between

DODGE COUNTY SHERIFF'S DEPARTMENT  
EMPLOYEES LOCAL 1323 B, AFSCME, AFL-CIO

and

DODGE COUNTY

Case 143  
No. 42245  
MA-5624

Appearances:

Mr. James L. Koch, Staff Representative, Wisconsin Council 40, appearing on behalf of the Union.

Mr. Ralph E. Sharp, Corporation Counsel, appearing on behalf of the County.

ARBITRATION AWARD

Dodge County Sheriff's Department Employees Local 1323 B, AFSCME, AFL-CIO, hereinafter referred to as the Union, and Dodge County, hereinafter referred to as the County, are parties to a collective bargaining agreement which provides for the final and binding arbitration of disputes arising thereunder. The Union made a request, with the concurrence of the County, that the Wisconsin Employment Relations Commission designate a member of its staff to act as an arbitrator to hear and decide a grievance over the meaning and application of the terms of the agreement. The undersigned was so designated. Hearing was held in Juneau, Wisconsin on September 7, 1989. The hearing was transcribed and the parties waived oral and written arguments in the matter. The transcript was received on September 8, 1989, whereupon the record was closed.

BACKGROUND

The facts underlying this grievance are not in dispute. Prior to 1982, employees were paid bi-weekly on every other Friday. The employees were paid for the previous two weeks including the Friday payday so employees were paid even though they had not worked the hours on the Friday payday. For the calendar year 1982, the parties agreed to contractual language which provided as follows:

13.3 Employees shall be paid biweekly for time worked through the previous Friday. Withholding of the five days needed for the transition shall be taken

three days from the retroactive pay check and one day each from the third pay check of the months of July and December.

The employees work 8 hours a day on a 4-2 schedule with the result that they work on average 75 hours every 2 weeks and are paid for 75 hours of work each pay day. In 1982, the employees worked 1850 hours and were paid for 1912.5 hours. Every year since then employees have worked 1850 hours and have been paid for 1850 hours. The instant dispute concerns the pay an employee is entitled to upon termination. If an employee terminates on a pay day, that employee is paid for 1 week on the following pay day. If an employee terminates in the middle of the pay period, the employee is paid for 2 weeks at the end of the pay period one week later. In short, the employees who terminate their employment have received their normal pay for the 37 1/2 hours withheld. In the grievance, the Union claims employees are entitled to 5 days at 8 hours for the 5 days withheld in 1982, so should be paid 40 hours as opposed to 37 1/2 hours for the one week delay upon termination.

### ISSUE

The parties stipulated to the following:

Has the County paid the five days of withheld pay upon termination of employment? If not, what is the appropriate remedy?

### DISCUSSION

The record established that prior to 1982 employees were paid on Friday for the previous two week period including that Friday. If an employee resigned his employment on Friday which was a pay day, the employee received no further pay as the pay day was also the last day worked. In 1982, the parties agreed to a one week delay in pay. The Union asserts that 5 work days were withheld and each workday consists of 8 hours for a total of 40 hours withheld. The evidence indicates that under the 1982 agreement employees would be paid biweekly through the previous Friday and the second week would be paid later and the built in delay was taken from retroactive pay and the third pay checks in July and December. The record shows that only 37.5 hours were withheld (22.5 hours from retroactive pay, 7.5 hours in July and 7.5 hours in December) and not 40 hours. 1/ The record demonstrates that since 1982 employees have been paid for all hours worked. When an employee terminates on a pay day, the employee is paid for the previous 2 weeks and is paid 1 week (37.5 hours) at the next pay period for the delay or the withheld week. But for the 1982 withholding, the employee who ends his employment on a pay day would receive no further pay. 2/ But because of the withholding, the employee is paid on the pay day and day of termination and then paid 1 week's pay on the following pay day due to the withholding. Thus,

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1/ Exs. 5, paragraph 6., 12.

2/ Ex. 8 and 12 appear to correctly state how payment is made.

the evidence failed to prove that the County has not paid the five days withheld or delayed in 1982 upon termination of employment.

Based on the above and foregoing, the record as a whole, and the arguments of the parties, the undersigned issues the following

AWARD

The grievance is denied.

Dated at Madison, Wisconsin this 3rd day of October, 1989.

By Lionel L. Crowley /s/ \_\_\_\_\_  
Lionel L. Crowley, Arbitrator