

BEFORE THE ARBITRATOR

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In the Matter of a Dispute Between

**THE MAYVILLE POLICE DEPARTMENT EMPLOYEES, LOCAL 1323-C, AFSCME**

and

**THE CITY OF MAYVILLE, WISCONSIN**

Case 22  
No. 71921  
MA-15228

**Award No. 7881**

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Appearances:

**David Dorn**, appearing on behalf of the Union.

**Kyle J. Gulya**, appearing on behalf of the City

**ARBITRATION AWARD**

I was assigned by the Wisconsin Employment Relations Commission to serve as arbitrator as to this educational reimbursement grievance. Hearing was held on June 25, 2013, in Mayville, Wisconsin. The proceedings were not transcribed or otherwise recorded. The parties filed briefs and reply briefs by August 23, 2013.

**ISSUE**

The parties were unable to agree on a statement of the issue but did agree that I had authority to frame the issue after giving consideration to their respective positions. Having done so, I conclude the issue is as follows:

Did the City violate Article XXII, Section V, of the contract when it denied the grievant's educational reimbursement request and, if so, what remedy is appropriate?

**DISCUSSION**

Article XXII, Section V, states in pertinent part:

The City shall pay no more than a total of two thousand dollars (\$2000) per employee per year, for a maximum of two (2) employees. Qualifying amounts in excess of two thousand (\$2000) per employee per year may be carried forward and reimbursed in succeeding years, but only after any initial requests for reimbursement in those succeeding years is paid. The City, at its sole discretion may approve requests above the two thousand dollar (\$2000) limit.

This contract language replaced a provision that required the City to reimburse all employees for the entire amount of any qualifying educational expenses.

The grievant submitted a carryover reimbursement request of \$2,000 for 2013. That request was denied by the City. No other 2013 reimbursement requests were received.

Both parties argue the intent of the contract language is clear. I agree. Article XXII, Section V, commits the City to pay up to \$4,000 each year (\$2,000 each for up to two requesting employees) for educational reimbursement. The City can (“in its sole discretion”) choose to exceed the mandated \$2,000 per employee limit if it wishes to do so. Payment of “initial” reimbursement requests up to the \$4,000 limit take priority over payment for any carry over requests. Thus, it is clear that if “initial” reimbursement requests had been made and approved in the amount of \$4,000, the City would have no obligation to make any carryover reimbursement to the grievant.

The facts at hand pose the question of whether the City “may” deny carryover reimbursement even where, as here, it has not incurred any of the \$4,000 “shall pay” liability that it would be obligated to pay if requested on a non-carryover basis. I conclude it cannot. I am persuaded that by virtue of Article XXII, Section V, the City has broadly obligated itself to pay up to \$4,000 in qualifying educational reimbursement requests each year. Therefore, where, as here, “initial” requests have not been made / paid, the City is contractually obligated to pay qualifying carryover expenses up to the \$2,000 maximum per requesting employee. Thus, the grievance is sustained and the City shall pay the grievant’s \$2,000 reimbursement request.

Dated at Madison, Wisconsin, this 21st day of November 2013.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION



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Peter G. Davis, Arbitrator