

BEFORE THE ARBITRATOR

In the Matter of the Arbitration of a Dispute Between
MILWAUKEE DEPUTY SHERIFFS' ASSOCIATION
and
COUNTY OF MILWAUKEE

Case ID: 161.0061
Case Type: MA

AWARD NO. 7968-A

Appearances:

Attorney Graham P. Wiemer, for the Association.

Attorney Melinda Lawrence, for the County.

ARBITRATION AWARD

On February 17, 2020, the Milwaukee Deputy Sheriffs' Association filed a request with the Wisconsin Employment Relations Commission asking that a member of the Commission's staff be assigned to serve as a grievance arbitrator as to a dispute between the Association and the County of Milwaukee. I was so assigned.

On March 9, 2020, the County filed a position statement asserting that the grievance in question was not procedurally or substantively arbitrable. The Association filed response on November 11, 2020.

On January 22, 2021, I issued an Arbitration Award concluding that the grievance was both substantively and procedurally arbitrable. The parties subsequently entered into a Stipulation as to certain facts and exhibits and filed written argument-the last of which was received June 11, 2021. The parties responded to an inquiry from me by September 25, 2021.

ISSUE

Did the County violate Article 5.01 (1) and Ordinance 17.01 by failing to provide the grievant with any Pay Step credit upon his re-hire? If so, what remedy is appropriate.

DISCUSSION

Article 5.01 (1) of the applicable collective bargaining agreement gives a grievance arbitrator authority to determine if the County violated a County ordinance. Here, the grievant was re-hired by the County at the same Pay Step he was at when he left County service. The Association claims that Ordinance 17.01 obligates the County to provide some Pay Step credit to employees such as the grievant who have obtained additional law enforcement experience prior to being re-hired. The County asserts it has no such obligation and that it has discretion as to whether and how much credit returning employees should receive.

Ordinance 17.01 states:

17.01-Compensation and Classification Uniformity

All authorized positions in the service of the county shall be compensated and classified in accordance with the duties and responsibilities assigned to the position. Positions assigned duties and responsibilities which are similar and which require similar training, education and experience shall be compensated and classified uniformly. The director of human resources shall determine which authorized positions are either covered or not covered by the Fair Labor Standards Act and for those positions which are covered by the Fair Labor Standards Act, the director of human resources shall determine which positions are exempt and non-exempt from the Act's provisions. The director of human resources shall maintain a listing of all classifications and ranges of compensation (known as schedule G prior to December 27, 1987), and a listing of all authorized positions by department (known as schedule H prior to December 27, 1987) in accordance with the provisions of section 17.28 of the code.

The Association points to the portion of Ordinance 17.01 which states:

Positions assigned duties and responsibilities which are similar and which require similar training, education and experience shall be compensated and classified uniformly.

The Association's argument presumes that the word "Position" specifically refers to each individual Deputy Sheriff and obligates the County to treat each Deputy Sheriff uniformly upon re-hire based on any additional law enforcement experience acquired since they left County employment. When determining whether "Position" should be defined as the Association asserts, the Ordinance as a whole must be considered. Importantly, the Ordinance refers to a "listing of all authorized positions by department . . . in accordance with the provisions of section 17.28 of the code." The parties agree that examples of the "listing" in question are found in Exhibits 21 and 22. Those Exhibits contain the general pay rates and steps for various County positions but not the specific pay received by each individual employee to which the rate and step applies. Given this specific example within the Ordinance as to how the word "Position" should be interpreted, I conclude that the "compensated and classified uniformly" language in the Ordinance does not

apply to County judgments as to where to place an employee on a pay scale upon re-hire. Rather, the Ordinance generally requires that the multitude of positions within the County be “compensated and classified uniformly” based on duties, responsibilities training, education and experience. Therefore, I conclude that the County did not violate Article 5.01 (1) and Ordinance 17.01 by failing to provide the grievant with any Pay Step credit upon his re-hire.

Issued at the City of Madison, Wisconsin, this 4th day of October, 2021.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Peter G. Davis, Arbitrator