

161BEFORE THE ARBITRATOR

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

Case 161.0060

(M. Pawlak Grievance No. 63889)

AWARD NO. 7977

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**Appearances:**

Graham Wiemer, for the Association.

Melinda Lawrence, for the County.

**ARBITRATION AWARD**

Pursuant to the terms of a collective bargaining agreement, the Wisconsin Employment Relation Commission assigned me to serve as arbitrator as to a pay grievance. The parties thereafter stipulated to the evidentiary record and filed briefs by March 26, 2021.

**ISSUE**

The parties agreed to the following statement of the issue:

Does Article 3.02 of the Parties' Agreement require members to be compensated at time and one-half for hours worked in excess of 40 hours in a work week while TAHC'd into a higher classification under Article 3.09 of the CBA, if the higher classification is not entitled to such overtime payments?

**DISCUSSION**

The grievant was temporarily assigned to work (TAHC'd) in the higher classification of Lieutenant. Lieutenants are not covered by the Union contract and only receive straight time pay for hours worked in excess of 40 in a work week.

Article 3.02 of the contract entitled "OVERTIME" states in pertinent part:

(1) All time credited in excess of . . . forty (40) hours per week shall be paid in cash at the rate of one and one-half (1½) times the base rate . . . .

The Union cites Article 3.02 as a clear requirement that the grievant be paid time and one-half for overtime while working temporarily as a Lieutenant.

The County cites Article 3.09 as clearly establishing that the grievant is only entitled to receive straight time for any overtime hours worked as a Lieutenant. Article 3.09 is entitled "TEMPORARY ASSIGNMENTS" and states in pertinent part:

(1) Employees may be assigned to perform duties of a higher classification for which they are qualified. When so assigned, the employee shall be paid as though promoted to the higher classification for all hours credited while in such assignment.

I acknowledge that the clash between Article 3.02 and Article 3.09 presents a close question. However, I conclude that the more specific language of Article 3.09 governing temporary assignments is the best indicator of the parties' contractual intent rather than the general overtime language. That language specifies that the grievant shall be "**paid as though promoted . . . for all hours credited . . . .**" (emphasis added). Because Lieutenants do not receive time and one-half for any work hours credited, neither does the grievant when he is working as a Lieutenant.

Issued at Madison, Wisconsin, this 10<sup>th</sup> day of June, 2021.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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Peter Davis, Arbitrator