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In the Matter of Mediation-Arbitration Between *
*
City of Wisconsin Dells *
*
-and- *
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Local 1401, AFSCME, AFL-CIO *
*

WERC Case XVI
No. 22646
MED/ARB-47
Decision No. 16140-A

Appearances: James P. Gerlach, City Attorney, for the City
Darold O. Lowe, District Representative, for the Union

On March 29, 1978, the Wisconsin Employment Relations Commission appointed the undersigned as mediator-arbitrator in the above-captioned case pursuant to Section 111.70 (4)(cm)6 of the Municipal Employment Relations Act.

The undersigned conducted a mediation session on May 16, 1978, which failed to resolve the impasse. The matter thus proceeded to arbitration. The parties agreed on May 16th to waive a hearing, and agreed also to submit briefs. The record was closed with the receipt of briefs, by the arbitrator, on June 16th.

Under the statute the arbitrator must select one of the parties' final offers submitted to the WERC prior to the start of the mediation-arbitration. Since the parties did not agree to change their offers, it is those offers certified by the WERC and contained in WERC Investigator Greco's letter of March 20, 1978 to the parties from which the arbitrator must now select one.

The City's offer is:

6% increase of 5.22 per hour coverage (sic) hourly rate (\$.31 per hour across the board)

The Union's offer is:

1. Add to Article VIII

Employees who have been employed by the City for ten (10) or more years and retire from City service and are eligible for a Wisconsin Retirement Fund Annuity and/or Social Security, shall be paid in wages for twenty-five percent (25%) of their accumulated sick leave upon retirement.
2. Wage rates in Appendix A be increased by:
 - (a) 30¢ per hour effective January 1, 1978
 - (b) 5¢ per hour effective July 1, 1978.

Facts:

In support of its case the Union offers the following facts:

(1) The City has granted the following provision to its police, contained in the 1976-77 police contract and included in the 1978 contract:

Upon retirement an employee's accumulated sick leave days shall be turned into a full monetary value and twenty-five percent (25%) payment shall be paid to the employee or his estate.

(2) The consumer price index for 1977 rose 6.8% for all items nationally, and 6.5% for Milwaukee.

(3) The City increased the monthly salary of three unrepresented employes from 1977 to 1978 as follows:

	<u>1977</u>	<u>1978</u>
Employe A	1158.28	1250.00
Employe B	1016.28	1125.00
Employe C	1275.24	1375.00

In support of its case the City offers the following facts:

(1) The wage cost of the City's offer is \$14,508 plus an additional \$3,939.92 in fringe benefit costs, or a total of \$18,446.92. The wage cost of the Union's offer is \$15,210 plus an additional \$4,129.52 in fringe benefit costs, or a total of \$19,339.52.

(2) The estimated cost of the Union's sick leave proposal is \$3,409.70 in 1978 for three employee expected to retire, \$3,203.85 for two employes in 1979, and \$1,439.21 for one employe in 1980, if that employe does not retire in 1979 as is his option.

(3) A survey by the City shows the following:

(population is indicated in parenthesis)

Delavan (5526), Adams (1440), Sauk City (2385), Prairie du Sac (1902), Reedsburg (4585), Eagle River (1326) and Wisconsin Dells (2419) for teachers, do not pay accumulated sick leave benefits upon retirement.

Hayward (1457), Minocqua (3197), Richland Center (5086), Mauston (3466), Portage (7821) and Wisconsin Dells (2419) for police pay some form of accumulated sick leave benefits upon retirement.

Positions of the Parties:

Union: The position of the Union may be summarized as follows:

(1) The Union contends that its sick leave request is more restrictive than the provision already granted by the City to its police. The Union contends that "equality on what has been granted to other City employes of Wisconsin Dells should be a major concern of the Employer when they come to the collective bargaining table with their employes."

(2) The Union calculates the City's wage offer to be a .0593% increase, which is lower than the Union's offer of .0664%. The Union views its offer as closer to the change in the cost of living index during 1977 than is the City's offer. In addition, the Union emphasizes that the City granted larger than cost of living increases to non-represented employes.

City: The position of the City may be summarized as follows:

(1) The City contends there is no substantial difference between the parties' wage offers. It sees the real issue as the effect on the parties respective offers of the Union's sick leave proposal.

(2) The City contends there has been no showing that wages and benefits of public employes in Wisconsin Dells are lower than for cities of comparable size. The City contends also, that the Union cannot demonstrate that Wisconsin Dells employes are disadvantaged in terms of use of accumulated sick leave in comparison to contiguous cities and "cities that are of a tourist-town nature as is the Dells." The City's exhibit of comparisons shows no consistent pattern of providing the requested benefit, according to the City. Even within the City there is no consistent pattern, the City urges, since while police get it, teachers do not.

(3) The City feels justified in paying accumulated sick leave to police, but not public works employes. It cites the relative youth of the police force, a desire by the City to encourage officers to stay with the City, the lower wages of City police as contrasted with public works employes, and the fact that the accumulated sick leave benefit costs little at the present time for police. It cites, by contrast, an older public works department for which the requested benefit would be costly in the near future. The City also cites the fact that many other differences exist between the contracts of the two departments.

(4) The City contends also that it has a limited ability to pay the requested benefit because it is at its debt levy limit and it has exhausted available revenue sources.

Discussion:

The arbitrator's judgment must be made in light of the decision criteria contained in the statute.

(1) The arbitrator does not view the dispute as involving the "lawful authority" of the City. The City raised the levy limit issue in its brief, but did not support its argument with proof that payment of the Union's offer would force the City to exceed its lawful authority.

(2) There was no evidence presented which persuades the arbitrator that either offer would not be in the interests and welfare of the public and within the financial ability of the unit of government to meet the costs involved.

(3) Both parties contended that wage comparisons supported their positions. Neither party made comparisons to private employers. The City asserts that its wages, hours, and benefits are comparable to wages, hours, and benefits for employes performing similar services and with other employes in comparable communities. The Union's exhibits and briefs did not demonstrate anything to the contrary. With regard to comparisons in the same community, Wisconsin Dells, the Union showed that the police have the accumulated sick leave benefit, and the City showed that the teachers do not.

(4) Both parties referred to the consumer price index. The wage offers are slightly different although the Union's is closer to the change in the consumer price index.

(5) Neither party addressed the issue of overall compensation of employes.

It is the arbitrator's conclusion that both offers are reasonable. However, the arbitrator believes that the City has made more persuasive arguments than has the Union with respect to the accumulated sick leave benefit. The Union bases its argument on the fact that the City gives the benefit to police. The City has shown, however, that it has sound reasons for treating the bargaining units differently, and has argued without contradiction that the costs would be substantial at a time when the City does not have much budgetary flexibility, and the public works employes are not the only bargaining unit in the City without the sought after benefit. What is more, the Union has not made any showing that the public works employes in Wisconsin Dells are disadvantaged relative to public works employes in comparable communities by not receiving the benefit.

For all of these reasons, it is the arbitrator's view that the City's offer has been shown to be the more reasonable offer.

Based on the above facts and discussion the arbitrator makes the following AWARD:

(3) The City feels justified in paying accumulated sick leave to police, but not public works employes. It cites the relative youth of the police force, a desire by the City to encourage officers to stay with the City, the lower wages of City police as contrasted with public works employes, and the fact that the accumulated sick leave benefit costs little at the present time for police. It cites, by contrast, an older public works department for which the requested benefit would be costly in the near future. The City also cites the fact that many other differences exist between the contracts of the two departments.

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For all of these reasons, it is the arbitrator's view that the City's offer has been shown to be the more reasonable offer.

Based on the above facts and discussion the arbitrator makes the following AWARD:

The final offer of the City for 1978 should be implemented.

Dated this 28th day of June, 1978.

Edward B. Krinsky /s/
Edward B. Krinsky, Arbitrator