

JAN 24 1986

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STATE OF WISCONSIN
BEFORE THE ARBITRATOR

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I. APPEARANCES

On Behalf of the Union: Marianne Goldstein Robbins,
Attorney at Law, Goldberg,
Previant, Uelmen, Gratz, Miller
& Brueggeman, S.C.

On Behalf of the County: Bruce K. Patterson, Employee
Relations Consultant

II. BACKGROUND

On September 17, 1984, the Parties exchanged their initial proposals on matters to be included in a new collective bargaining agreement to succeed the agreement covering the wages, hours and working conditions of the employees in said unit. This agreement expired in December, 1984. Thereafter, the Parties met on three occasions in efforts to reach an accord on a new collective bargaining agreement. On November 28, 1984, the Union filed the instant petition requesting that the Commission initiate Mediation-Arbitration pursuant to Section 111.70(4)(cm)6 of the Municipal Employment Relations Act. The investigation was held in abeyance at the request of the Parties. On March 1 and April 9, 1985, a member of the Commission's staff conducted an investigation which reflected that the Parties were deadlocked in their negotiations. Subsequently, the Parties submitted to the Investigator their final offers, and thereupon, the Investigator notified the Parties that the investigation was closed. The Investigator then advised the Commission that the Parties remain at impasse.

The Commission then ordered the Parties to select a Mediator/Arbitrator. The undersigned was selected from a list provided by the Commission, and the appointment was dated May 8, 1985.

The Parties agreed to waive mediation and agreed to submit evidence directly to the Arbitrator, reserving the right to request a hearing for rebuttal if necessary. The evidence was exchanged and no request made for a hearing. Post hearing briefs were filed and exchanged December 2, 1985. Based on the relevant statute, the evidence, and the arguments of the Parties, the Arbitrator renders the following award.

III. ISSUES

There are only two issues unresolved between the Parties. The first issue is wages. In this regard, it should be noted that there is one job classification (Child Care Worker) and there are three wage rates within that classification (start, six months, and after 18 months). The County offers to increase all wage rates by three percent. Therefore, their proposal would result in the following:

Child Care Worker (Start)	\$6.8970 per hour
Child Care Worker (after 6 mos.)	7.4193 per hour
Child Care Worker (after 18 mos.)	7.6909 per hour

On wages, the Union proposes a freeze on Classification A (Start) and a four percent increase on the other rates, plus an additional adjustment of 0.05 per hour to classification C (18 months). Therefore, their proposal would result in the following:

Child Care Worker (Start)	\$6.6961 per hour
Child Care Worker (after 6 mos.)	7.4913 per hour
Child Care Worker (after 18 mos.)	7.8156 per hour

The other issue relates to the Union's proposal to modify Article 18.04. Article 18.04 in the 1984 contract read as follows:

"All employees shall be allowed to use accumulated sick leave for critical illness of their spouse and children not to exceed six (6) days in any year."

The Union is proposing in its final offer, that Article 18.04 also include parents and step-parents.

IV. ARGUMENTS OF THE PARTIES

A. The Union

Generally speaking, it is the Union's position that their offer on wages is more consistent with the increases in wage levels for similar positions in comparable communities, and is also consistent with internal comparisons to the extent that these can be made. Regarding their proposal for revising Article 18.04, they contend it is consistent with benefits in other bargaining units within Rock County and that there is no contravening evidence against the amendment.

They believe their position is supported by the statutory criteria. In light of the criteria, they present evidence on internal and external comparables. Regarding external comparables, they submitted evidence concerning the wages of employees in similar positions employed by comparable communities: the Marathon County Shelter Worker, the Racine County Non-Secure Detention Worker and the Dane County Juvenile Court Worker. They believe these comparisons to be valid since Marathon and Racine Counties have populations similar to that of Rock County. The use of Dane County, in their opinion, is justified because many counties do not employ individuals within a job description similar to that of Child Care Attendant. Since Dane County has a similar position, they have included it. Also, in terms of comparability, they note that all these positions are represented by a labor union.

Using these comparables, they draw attention to the fact that Shelter Home Youth Workers in Marathon County and Juvenile Court Workers in Dane County received four percent increases, while Racine County non-secure detention workers received an

equivalent of 4.5 percent. Thus, they submit that the Union's offer here will permit Rock County Child Care Attendants to maintain their current relationship to employees in similar positions in other counties. Moreover, their four percent offer is in line generally with increases in various other counties across the state.

In contrast, they note the County's proposal will result in Child Care Attendants falling still farther behind comparable employees in other communities. In addition, they argue that the County has presented no evidence concerning comparison with similar positions in public employment. Rather, for purposes of external comparison, the County relies upon the wage rate of employees working for private group homes. However, the Union believes the usefulness of these comparisons is limited, since none of the homes are represented by a labor union. In addition, they believe, based on the information in this record, comparisons of the respective duties of these positions is impossible. They also cite Arbitrator Grenig in a 1984 decision involving Rock County and the Association of Mental Health Specialists, where he opined that comparisons with private sector employers are not meaningful.

With respect to internal comparables, the Union believes that, to the extent these can be made, they support their offer. None of the other bargaining units have resolved their dispute with the County which has offered three percent in those units as well. They believe a comparison of the Union's offer, in the present case with the other union's final offers, underscores the reasonableness of the Union's final offer here. The Union's offer is at the lower end of the range of offers on a percentage, or cents per hour, basis.

In terms of rebuttal, the Union questions the meaningfulness of the County's data on total package increases. First, they submit that there is no evidence that the cost increases in retirement, social security and insurance included the cost analysis, represent an increase in the benefit level enjoyed by Child Care Attendants. Moreover, they note that here, the County makes no reference to its cost analysis when comparing Child Care Attendant wages to those of other county employees, or to private sector group home workers. Thus, they believe the County cost analysis has no bearing on either party's external or internal comparisons. Second, they draw attention to the fact that the fringe benefits provided to Child Care Attendants and other Rock County employees are similar, but the Child Care Attendants are at the low end of the range. For instance, they receive no health insurance for retirees, uniform cleaning allowance, shift differential or educational benefits.

The Union notes that the County analyzes the final offers in terms of other statutory criteria. These arguments, they suggest, are without merit. For instance, agricultural data is limited in usefulness, since only a small part of Rock County's work force is involved in agriculture. In addition, the County's figures concerning foreclosures and tax delinquency do not establish the County's inability to pay. They believe that the arguments raised by Rock County concerning the state of the agricultural economy, and the low increase in the cost of living, are best considered in light of comparisons with comparable communities. Since that data favors the Union, the County's economic evidence adds no support to their offer.

Last, the Union offers argument on their sick leave proposal. First, they note the County has presented no evidence in opposition to the Union's proposal. Their main argument is that their proposal is entirely consistent with comparisons to other bargaining units within Rock County. For instance, the Social Worker's bargaining unit specifically provides for the utilization of sick leave for the illness of a

parent, as well as a spouse or child; the Rock County Education Association Agreement provides for the use of sick leave due to a serious illness in the immediate family -- and immediate family is specifically defined to include parent; and the Rock County Attorney's unit, Courthouse unit, and Probation Officers Unit also permit the usage of sick leave for the illness of a member of the immediate family.

B. The County

The County analyzes the final offers in step-by-step fashion relative to the various statutory criteria. First, they believe it relevant to note, in terms of the stipulations of the Parties, that in addition to any increase in wages, it will incur an increase for health insurance costs of \$2364.00, or 1.2 percent, over the 1984 base compensation costs for the bargaining unit.

The next criteria they believe to be relevant is "the interest and welfare of the public and the financial ability of the unit of government to meet these costs." Regarding the public interest, they submit it would be best served by the employees in this and all County bargaining units receiving the internally consistent three percent wage increase offered by the County's final offer. In addition, they note that this is the increase level already authorized and implemented by the County for its non-union employees covered under the unilateral pay plan. The public interest would best be served, in their opinion, by selecting the County's offer in view of the state of the agri-business economy in Rock County. In this regard, they present evidence which shows that the agri-business portion of Rock County is a significant element of its economy, and that portion is in trouble. In their opinion, this is evidenced by an alarming increase in the rate of mortgage foreclosures, a dramatic drop in prices for key crops and a 260 percent increase in tax delinquencies over the last four years. Thus, they suggest this data supports the idea that the "Rock County Public Interest" would be best served by no wage or tax increase. Therefore, the County believes its final offer is very generous and reasonable.

The next factor discussed is factor (d), which states:

"(d) Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally in public employment in the same community and in comparable communities and in private employment in the same and in comparable communities."

When evaluating the Parties' positions as they relate to this criterion, the County requests that significant weight be given to a number of points. Their first point is internal consistency. They state that there is consistency with the increase granted to its employees in non-union positions, and its final offers to all units with which it is engaged in collective bargaining. The County is faced with trying to maintain internal wage relationship among twelve bargaining units. They have made efforts to maintain consistency in terms of fringe benefits and submit exhibits to this effect. In their opinion, their position of internal uniformity has support in arbitral authority. They believe many decisions have expressed a recognized need to encourage internally consistent settlements. In this regard, they cite Arbitrator Kay B. Hutchison in Decision No. 17729-B, Rock County; Arbitrator Zel Rice in City of Milwaukee, May 12, 1980, Decision No. 17197-A;

Arbitrator Monfils in Decision No. 19800-A in the City of Oconto; Arbitrator Malamud in Decision No. 21688-A, Brown County; Arbitrator Grenig, Decision No. 20600-A, Rock County; and Arbitrator Fleischli in Milwaukee County, Decision No. 20562-A.

Regarding external comparables, they contend their exhibits clearly show the superiority of their wage and benefit schedule over employers in the private sector in Rock County employing personnel to do similar type of work. A detailed analysis shows that the private sector group homes are charged with similar responsibilities as those required of Rock County Child Care Workers. The workload is similar, but the benefit level of the County employees is significantly higher. County employees enjoy full employer paid pension and health insurance programs, while the comparable employers provide no pension programs and pay only single health insurance premiums. In addition, vacation, holiday and sick leave benefits provided by the County easily exceed any of the comparable employers. The fact these private homes are in the same labor market makes these comparisons valid whether or not they happen to be controlled by a Union. In addition, they note that retention of employees in Rock County is not a problem, and therefore, it is reasonable to conclude that the wage levels paid in Rock County are commensurate with the recruitment requirements and retention need of Rock County.

On the other hand, the County objects to the validity of a number of Union exhibits relating to external comparables. They object to the use of Racine and Dane County, since they are 20 percent and 240 percent larger, respectively, in population. Also, they object because both have intensive urban centers with significantly different metropolitan problems than does agri-business oriented Rock County. A third basis for objections to the exhibit has to do with the Union's understating of the annualized wage level in its final offer. The Union comparisons are also lacking because of differences in qualifications. They note that according to the Union exhibits, in all instances, the qualification levels demanded are greater in the other counties than in Rock County. Rock County only requires some experience and high school graduation. The other counties require greater experience factors in the social service area, knowledge of the Children's Code, training in adolescent psychology and other more extensive requirements than Rock County. Thus, they suggest those factors may be necessary in the other jurisdictions and may be a basis for higher salary levels in those labor markets.

The next factor analysis is the cost of living. The County has set forth two different methods for dealing with this criterion. One exhibit sets forth the growth in the Consumer Price Index as measured by the U. S. Bureau of Labor Statistics for "All Urban Consumers" in "Small Metro Areas" at three percent for the calendar year of 1984. This growth is consistent with the County's offer. The second technique for measuring living costs measures relative living costs for various locales against the national average 100. Of the cities measured in Wisconsin, Janesville has the lowest cost of living. Thus, the County believes that these two measures serve to illustrate the reasonableness of its final offer.

Factor (f) relates to overall compensation. In this respect, the County argues that in addition to an excellent wage schedule, the employees enjoy a comprehensive benefit package. The generally uniform package of benefits provides employees in this unit with a fully employer paid health insurance and retirement program, in addition to the other benefits, including an extensive paid leave program. They believe this too contributes to an abnormally low turnover rate and a significant number of applicants for the position when a rare opening occurs. Hence, they maintain that a reasonable conclusion

is that County employment is highly desirable. Thus, based on the facts cited herein, the County believes that a three percent wage increase is sufficient, if not perhaps even excessive, to enable the recruitment and retention of employees possessing the requisite skills to perform the required work of positions in this bargaining unit.

The last factor analyzed is factor (h) which states:

"(h) Such other factors not confined to the foregoing which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact finding, arbitration, or otherwise between the parties, in the public service or in private employment."

Under this factor, the County believes it is appropriate to consider the problems on the farm. Again, they direct attention to exhibits which show a decline in farm employment and the increase in farm foreclosure rates. They also submit that when exhibits showing significant decline in farm prices are reviewed, it is even more apparent that farmers have reached the maximum load they can bare. Based on a survey of financial institutions handling farm credit and mortgages in Rock County, estimates of a minimum increase of 300 to 400 percent in the rate of foreclosures in 1985. Moreover, when one couples a heavy tax burden evidenced by increasing tax delinquency, with declining prices requiring farmers to sell crops and products at a loss, it is readily understandable that mortgage foreclosures will follow. Thus, in summary, the County submits they have shown clear examples of the types of economic problems specific to Rock County that required its County Board to ask employees to accept a three percent increase; an increase significantly greater than increases being enjoyed elsewhere in Rock County.

V. OPINION AND DISCUSSION

It is the opinion of the Arbitrator that the statutory criteria deserving the most weight under these circumstances is factor "d". While the cost of living and the state of the farm economy are relevant in the context of other criteria, it is often stated that settlements in comparable jurisdictions by comparable employers are an appropriate measure of the influence such economic factors should have on other wage disputes. While the problems in agri-business are real, and in some cases even tragic, the differences between Rock County and the other counties mentioned here are not so great that the Arbitrator is convinced that Rock County's settlement should necessarily depart from an appropriate comparable pattern of comparable wages. The economics of each of these counties also have a sizable agri-business component with a substantial influence. Thus, because a reasonable degree of comparability exists between Rock County and other public employers of youth home workers, greatest weight must be given to factor "d".

Factor "d" dictates that the Arbitrator compare the wages, hours, etc. of the employees at bar with those of employees performing similar work, other public employees generally in the same community and in comparable communities, and with employees in private employment.

Arbitrators and Parties, as they have here, generally speaking, break this factor down into internal and external comparables. The County believes internal comparables deserve more weight, and even so they believe the Union's selection of external public employers is inappropriate because of size and dissimilarity in duties, and that comparisons with external

private employers are more appropriate. The Union, on the other hand, believes reliance on private employers is invalid, especially since they are unrepresented. In terms of internals, they believe because their offer is lower than most other Union's, this comparison favors them.

There are several issues here to address. Public sector comparisons with private employers are often hard to make because many public sector jobs just are not found in the private sector. However, the jobs in question here are reasonably comparable to some found in the private sector, and the labor markets for both the public and private sector in this case are highly integrated. Therefore, on this basis, they should be considered and given some weight.

However, because they are unorganized the weight to be given is diminished somewhat, but not totally. It is diminished somewhat because the Mediation/Arbitration process is a substitute for the free collective bargaining process. Therefore, its results should approximate the results of collective bargaining, not purely unilateral wage determinations. On the other hand, non-union wages cannot be totally discounted because even in free collective bargaining parties sometimes give weight to non-union wages, especially where the labor and product markets are highly integrated. Moreover, not to give some weight to non-union settlements would ignore the spillover effect Union settlements sometimes have. Thus, these wages should have a secondary influence.

The County also questioned the use of the Union's selection of external public sector employers. However, upon close examination of the job duties and qualifications are not so dissimilar that a reasonably valid comparison cannot be made. Regarding size, Racine is not that much bigger than Rock to make a comparison invalid, especially since Marathon County is smaller and less industrialized. Thus, the differences between the three are reasonably balanced. Dane however, is much too large to make anything but a secondary comparison.

In view of the foregoing discussion, the Arbitrator finds factor "d" controlling. Within that factor greatest weight will be given to wages for youth home workers in Racine and Marathon County. Secondary weight will be given to Dane County and wages in private youth homes.

In looking at what is a reasonable wage offer, it is appropriate in this case to look at both the amount of the wage increase and the resultant wage level. Looking at the wage increase -- three percent versus four percent -- the Union's offer is more consistent with the two primary comparables. The wage increase in Marathon was four percent. There was a split increase for 1985 in Racine County. The wage rate increased six percent and the cost to the employer annualized was four and a half percent.

Looking at wage levels, the Union's final offer again is most consistent with the two primary comparables. The top wage for a youth home worker in Marathon County in 1985 is \$16,806. Both offers are below this at \$15,997.09 for the Board (\$808, or 4.8 percent lower), and \$16,256.45 (\$549 or 3.2 percent lower) for the Union. The difference with Racine is even more dramatic. The top annual wage after April 1, 1985, in Racine for a similar worker will be \$21,804. Thus, even granting there are some differences in duties and the economics of Rock County and Racine, the differences do not justify this great of disparity in wages. Therefore, the 0.05\$ per hour adjustment at the top classification, in addition to the four percent, is clearly justified.

Looking at the secondary comparables, the Union's offer is consistent with Dane County at \$21,070 annually, and one out of the four private homes. One of the private homes pays \$8.00 per hour, or \$16,640 annually. The County's offer is more consistent with the other three private homes. Thus, concerning the secondary comparables, the picture is mixed. Even if it were concluded that the secondary comparables favored the Employer, this preference could only be considered marginal and could not outweigh the preference for the Union on the primary comparables.

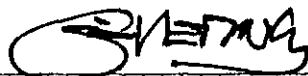
The last question is whether the internal comparables should be given more weight than the external comparables. Consistency in wage treatment and benefits is definitely a factor which deserves strong consideration, especially where there is a historical pattern of internal consistency, where there are voluntary settlements and where the internal pattern is within a reasonable range of the external pattern. In this case, the internal pattern for these employees is just too far out of step with the wage levels in the primary comparables to be given controlling weight.

The other issue relates to Article 18.04. The evidence here supports the Union's proposal. As they pointed out, it is supported by similar provisions in other contracts. Even if it was not, the proposal in and of itself is not so unreasonable to outweigh the Union's relatively more reasonable wage offer.

In summary, the Union's offer is preferred because it is most consistent with the settlement pattern and wage levels in the primary comparables, Marathon and Racine counties, and because this factor in this case is deemed to be deserving of greater weight than the evidence relating to other factors.

AWARD

The Parties 1985 Collective Bargaining Agreement shall include the Final Offer of the Union.



Gil Vernon, Mediator/Arbitrator

Dated this 23rd day of January, 1986, at Eau Claire, Wisconsin