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WISCONSIN EMPLOYMENT RELATIONS COMMISSION
BEFORE THE MEDIATOR-ARBITRATOR

JUN 27 1986

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the Arbitration Between :

DISTRICT ONE TECHNICAL INSTITUTE STAFF & :
CLERICAL FEDERATION LOCAL 2398, AFT, WFT, :
AFL-CIO :

Case 139
No. 35331
Dec. No. 23046-A
MED/ARB-3384

and :

EAU CLAIRE VOCATIONAL, TECHNICAL & ADULT :
EDUCATION DISTRICT ONE :

OPINION AND AWARD

Appearances: For the Union, Margaret McCloskey, Staff Representative,
Wisconsin Federation of Teachers, Eau Claire.

For the Employer, Stevens L. Riley, Esq., Eau Claire.

BACKGROUND

On July 15, 1985, District One Technical Institute Staff & Clerical Federation Local 2398, AFT, WFT, AFL-CIO, (referred to as the Union) filed a petition with the Wisconsin Employment Relations Commission (WERC) requesting that the Commission initiate mediation-arbitration pursuant to Section 111.70(4)(cm)(6) of the Municipal Employment Relations Act (MERA) to resolve a collective bargaining impasse between the Union and Eau Claire Vocational, Technical & Adult Education District One (referred to as the Employer) concerning a successor to the parties' collective bargaining agreement which expired on June 30, 1985.

On November 7, 1985, the WERC found that an impasse existed within the meaning of Section 111.70(4)(cm). On November 26, 1985, after the parties notified the WERC that they had selected the undersigned, the WERC appointed her to serve as mediator-arbitrator to resolve the impasse pursuant to Section 111.70(4)(cm)(6)(b-g). No citizens' petition pursuant to Section 111.70(4)(cm)(6)(b) was filed with the WERC.

On April 2, 1986, the undersigned met with the parties to arbitrate the impasse dispute. (The parties waived the scheduled mediation meeting set for February 12, 1986 after voluntary attempts by the parties to settle the dispute were unsuccessful.) At the arbitration hearing, the parties were given a full opportunity to present evidence and oral arguments. Post hearing briefs were submitted by both parties.

ISSUE IN DISPUTE

Before and during the hearing, the parties were able to agree upon all issues in dispute except for salaries for 1985-86. The Union proposes a 6% increase applied to Rate (or Step) E while the Employer's final offer is a 4% increase applied to that Rate. The parties have agreed how to calculate each other's offers for Rates (or Steps) A, B, C and D to maintain the existing proportionate "spread" between Rates A and E.

STATUTORY CRITERIA

Under Section 111.70(4)(cm)(7), the mediator-arbitrator is required to give weight to the following factors:

- (a) The lawful authority of the municipal employer.
- (b) Stipulations of the parties.
- (c) The interests and welfare of the public and the financial ability of the unit of government to meet the costs of any proposed settlement.

- (d) Comparison of wages, hours and conditions of employment of the municipal employees involved in the arbitration proceedings 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 communities and in private employment in the same community and in comparable communities.
- (e) The average consumer prices for goods and services, commonly known as the cost-of-living.
- (f) The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pension, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (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."

POSITIONS OF THE PARTIES

The Union

The Union notes that the parties disagree about comparables. It believes that the most appropriate comparables are similar support staff units at other VTAE institutions in the state because they perform work of a similar nature, with similar settings, funding, and organizational structures. It rejects comparisons with city, county, school district and university employees because that is the proverbial comparison between apples and oranges due to differences in organizational structures and funding sources. In particular the Union distinguishes between universities and VTAE institutions by differences in funding, programs, and level at which negotiations takes place. It emphasizes the difficulties which develop when making broad cross-comparisons where there are significant differences in job titles and job content. In order to assure the most valid comparisons, the Union concludes that only comparisons with similar institutions are valid; comparisons proposed by the Employer have the potential of being extremely misleading (although the Union notes that 1985-86 percentage settlements among the Employer's comparables are closer to its final offer than the Employer's final offer).

The Union rejects cost of living as an independent factor which is entitled to great weight, noting that numerous VTAE settlements ranging from 4.7% to 7.6% are not tied closely to that factor. It also rejects private sector wage settlements both generally, due to numerous differences between VTAEs and private employers, and specifically, due to the insufficient data provided by the Employer's exhibit, a Cray Research, Inc. wage survey.

Turning to internal comparables, the Union believes that it has been treated less favorably than the teachers unit since 1983-84 and acceptance of the Employer's final offer in this proceeding will

exacerbate the inequities. As for the custodial unit, the Union strongly argues that the Employer has only gone a small way to eliminate inequities with that unit. Accordingly, this unit needs more than 4%, the amount which reflects the settlement level for the custodians' unit, to go a significant way in closing the gap between pay in these two units.

The Union next addresses the external comparables. It believes that the Indianhead VTAE unit is the primary comparable since it is closest geographically and has reached a negotiated settlement for 1985-86. The Indianhead Support Staff unit negotiated a 5.54% salary increase which, the Union points out, is closer to its offer than the Employer's offer, particularly since the negotiations resulted in a 6% lift and base for 1986-87 negotiations. Other VTAE support staff settlements also support the Union's final offer regardless of whether salary increases or total compensation data expressed in percentage terms are examined. Although there are difficulties in comparing many individual job classifications because of diversity among the VTAEs, the Union chose the position of entry-level clerk-typist and compared hourly minimum and maximum rates for that position at the various campuses. From this analysis, the Union concludes that even the Union's final offer will lower District One's comparable standing while the Employer's offer will do even more harm to the Employer's already low comparable rankings. When comparable insurance costs are considered, the Union notes that the Employer has comparatively low premium rates; indeed, for 1985-86, District One is enjoying the benefits of decreases of 6.5% (family health coverage) and 5.9% (single health coverage) (while there has been no increase in dental insurance premiums). Finally, the Union notes that the comparable data indicate that most VTAE support staff work 37.5 hours per week while District One is one of only four districts with a 40 hour work week.

For all these reasons, the Union concludes that its offer is more reasonable than the Employer's offer and should be selected by the arbitrator.

The Employer

For the Employer, the applicable statutory factors are comparables, both internal and external, and the cost-of-living. Beginning with internal comparables, the Employer emphasizes the relevancy of the two voluntary settlements for 1985-86 with the unit of custodians and the food service employees unit. In both cases, the parties agreed to a 4% increase, exactly what the Employer's final offer is in this proceeding. The Employer rejects comparisons with the teachers unit citing arbitral precedents for this position. The Employer also notes its demonstrated willingness during prior negotiations to address certain differences between the rates of pay for some clerical jobs and the rates of pay for some custodial jobs by offering across-the-board cents-per-hour increases; the Union rejected this approach by insisting upon across-the-board percentage increases for all unit members. Thus, the Employer believes that the Union has been responsible for the failure of the parties to resolve the need for certain clerical positions "catching up" with certain custodial positions.

Turning to external comparables, the Employer notes that where VTAE comparables have been used, the appropriate comparables for District One have been those adjacent: Indianhead, North Central, Mid-State and Western Wisconsin. Only two of these VTAEs have settled for 1985-86, Indianhead and Western Wisconsin. While their percentage increases are slightly in excess of the Employer's final offer, a comparison of all of the classifications in this unit with similar positions in Indianhead (where the Union has supplied detailed information) demonstrates, according to the Employer, that the Employer's final offer compares favorably with Indianhead rates. Although the Employer was not able to make a similar analysis for Western Wisconsin (because the Union supplied

incomplete data) and the difficulties in transposing monthly salaries into hourly rates, the Employer notes that its offer will go a significant way to reduce the gap that exists between the lowest clerk-typist rate at Western Wisconsin and the lowest clerk-typist rate at District One. Thus the Employer concludes that the two VTAE comparables, Indianhead and Western Wisconsin, support its final offer.

For the Employer, however, the most important comparables are the Eau Claire Area School District, Eau Claire County, the City of Eau Claire, and the University of Wisconsin - Eau Claire. It believes that its exhibits and testimony demonstrate that the Employer's offer at least maintains historical relationships and in some instances improves the Employer's comparable standing.

Turning to comparisons with the private sector, the Employer acknowledges that the Cray Research, Inc., survey put into evidence is of limited value since it does not identify participating employers, yet the Employer underscores a general conclusion of the survey that clerical pay is higher in the public sector than in the private sector. It notes that this will remain true regardless of which party's final offer is selected; it believes the Union's final offer will only increase the spread.

Finally, the Employer addresses the cost-of-living statutory factor. It points out that its final wage offer of 4% and total package of 4.66% is in excess of the rise in the cost-of-living. Therefore, its offer is more in line with that factor than the Union's final offer. In this connection, the Employer also points out that two major components of the C.P.I. are medical expenses and interest. Unit employees are protected against increases in medical expenses by the Employer's comprehensive medical insurance program and interests rates continue to decline in 1986.

The Employer concludes that it has demonstrated that internal comparables, appropriate external comparables, and cost-of-living data, all support its final offer. It believes, therefore that its final offer should be adopted by the arbitrator.

DISCUSSION

The dispute between the parties in this proceeding illustrates a not uncommon situation under Wisconsin's mediation-arbitration legislation. While this impasse dispute appears to be a "simple" case since there is only one outstanding issue, whether wage increases for 1985-86 shall be 4% or 6%, it is not a simple matter to choose between the parties' final offers, particularly when comparable data are considered.

The Employer argues that special weight should be given to two internal comparables, the custodial unit and the food service unit, which have voluntarily settled for 4%, the Employer's final offer in this proceeding. The Union argues that larger increases agreed to for the teachers unit are also relevant and further contends that giving members of this unit the same percentage increase as custodial employees receive does nothing to redress historical inequities between certain classifications in the custodial unit and this support staff unit.

The parties also have a vigorous dispute about external comparables. The Union looks to other VTAE support staff units only and places particular emphasis upon its analysis of minimum and maximum rates for the entry-level clerk-typist. In contrast, the Employer emphasizes local external comparables which include the Eau Claire Area School District, Eau Claire County, the City of Eau Claire, and the University of Wisconsin - Eau Claire. If other VTAEs are to be considered, however, the Employer believes that only contiguous institutions are appropriate comparables. Even when the parties have reached a consensus about the particular relevancy of the Indianhead VTAE for this dispute (since data are available from its 1985-86 settlement), the parties disagree

about the interpretation of the data. The Employer contends that comparisons between District One and Indianhead should not be restricted to the entry-level clerk-typist rates but should be comprehensive comparisons.

Resolving the above differences between the parties is particularly difficult since the record contains sparse information about job duties and responsibilities, qualifications, and other pertinent data except for starting and maximum wage rates. Unlike public school teachers units where it is usually possible to make comparisons from one employer to another, comparisons between clerical units are often difficult to make because of differences in titles, job duties, movement on the pay scale, etc. The wide diversity of positions within support staff units compounds the difficulties, even for similar VTAE units.

Keeping the above points in mind, the undersigned must sort through the parties' various arguments in order to determine the outcome of this proceeding. First, she agrees with the Employer that comparative data from the Eau Claire Area School District, Eau Claire County, the City of Eau Claire, and the University of Wisconsin - Eau Claire are relevant primarily because these employers share with District One the same labor market for support staff employees. Unfortunately, the record contains insufficient information to confirm the Employer's conclusion that its offer maintains or improves historical relationships when wage rates are scrutinized. Similarly it contains little information to substantiate the Union's generalization that 1985-86 settlements in these comparables are "almost all" higher than the Employer's final offer although this generalization was not challenged by the Employer.

As for internal comparables, the undersigned notes the Union's argument that this unit merits "catch up" with the custodial unit and, accordingly, the custodial unit's voluntary settlement for 1985-86 of 4% should not determine what is appropriate for this unit. She further notes that the Employer acknowledges some need for "catch up" for certain support staff positions but believes that the most appropriate way to address this issue is through selected adjustments or dollar across-the-board increases, not percentage across-the-board increases. Although job descriptions were submitted by the Union covering the positions of clerk-typist and custodian, the undersigned has been supplied with insufficient information to make an overall judgment on the merits of the dispute beyond noting that there is a consensus that there is a need for "catch" up between the two units at the bottom of the salary schedule. Neither party's final offer directly addresses this issue. It appears that regardless of which final offer is selected, the "catch up" question will still remain for 1986-87 negotiations. As for comparisons which the Union attempts to make between this unit and the teachers unit, the undersigned believes that other arbitrators have correctly concluded that such comparisons are not appropriate in view of the different labor markets and mobility involved.

Because of the above conclusions on internal and external comparables discussed above, comparisons between this unit and other VTAEs take on special significance in this proceeding. Although the Union argues that all VTAEs (except Milwaukee and Madison) are relevant, the undersigned believes that the concept of the appropriate labor market requires that primary consideration be given to support staff units in contiguous VTAEs, as the Employer argues. Of the four contiguous districts, only Indianhead and Western Wisconsin have settled for 1985-86. The Union concludes that this comparable data support its final offer on the basis of total salary percentage increases, total package percentage increases, and rates of pay for the entry-level clerk-typist. The Employer concludes that the Indianhead data support its final offer since its comparisons show that at every level its final offer provides better rates than the Indianhead rates.

In the judgment of the undersigned, the most pertinent comparable data submitted in this proceeding relates to total package increases for Indianhead and Western Wisconsin support staff units.

According to that data, Indianhead's increase of 6.1% is much closer to the Union's final offer total package of 6.62% than the Employer's final offer total package of 4.66%. Western Wisconsin's total package increase of 5.5% is slightly closer to the Employer's final offer total package than it is to the Union's final offer total package. Overall, these total package comparisons favor the Union's final offer although the undersigned is aware that Indianhead's 1985-86 settlement package may reflect a higher-than-usual "catch-up" approach.* In the absence of better data, however, the undersigned believes that her emphasis on the total compensation factor applied to these two external comparables is justified. Total compensation in contrast to salary alone or even total salary alone represents more accurately and realistically the costs to the employer and the benefits to the employees.

In cases such as this where there is sparse external comparable data (only from Indianhead and Western Wisconsin) on total compensation increases and where the data do not support a clear preference for one party's final offer over the other, it might be expected that internal comparables would play a decisive role. In this case, however, the appropriate internal comparables, particularly the custodial unit, present some special problems. There is a consensus between the parties that some "catch up" is appropriate although there is disagreement as to how to implement such a "catch up." As noted earlier, neither party's final offer directly addresses this issue. In any case, because of the Employer's acknowledgement that its final offer fashioned in terms of a percentage across-the-board increase makes no attempt to solve (even partially) certain agreed upon inequities, the undersigned has not given determinative weight to the non-teaching internal comparables. Accordingly, the Union's final offer which is supported primarily by the total compensation data from Indianhead appears to be the more reasonable final offer.

AWARD

Based upon the statutory criteria contained in §111.70(4)(cm) (7), the evidence and arguments of the parties, and for the reasons discussed above, the mediator-arbitrator selects the final offer of the Union and directs that it, along with all already agreed upon items, be incorporated into the parties' collective bargaining agreement effective July 1, 1985.

Madison, Wisconsin
June 24, 1986

June Miller Weisberger
Mediator-Arbitrator

* The undersigned is also aware of the 6% "lift" negotiated in Indianhead for 1986-87 negotiations.