

SEP 28 1987

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

IN THE MATTER OF BINDING APBITRATION)

INTEREST ARBITRATION)

between)

Oconto County (Courthouse), Oconto,
Wisconsin)

Case 71 No. 37730
ARR - 4097

-and-)

Decision No. 24218-A

Oconto County Courthouse Employees
Local 778-A, AFSCME, AFL-CIO)

September 6, 1987

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APPEARANCES

For Oconto County (Courthouse)

- Dennis Rader, Attorney, Mulcahy & Wherry, S. C., Green Bay, Wisconsin
- Ellen Crabtree, Research Associate, Mulcahy & Wherry, S. C., Green Bay, Wisconsin
- Eugene Dolata, Accountant
- Robert Wegner, Member, Personnel and Wages Committee
- Dennis Tonchek, Representative, Unified Services
- Craig Johnson, Representative, Unified Services
- Donald Kanack, Member, Personnel and Wages Committee
- Donald Bartels, Member, Personnel and Wages Committee
- Gerald Beekman, Member, Personnel and Wages Committee
- Dick Scott, Member, Personnel and Wages Committee
- Oscar Tachick, County Board Chairperson

For Oconto County Courthouse Employees Local 778-A, AFSCME, AFL-CIO

- Guido Cecchini, Staff Representative, Wisconsin Council 40, AFL-CIO
- Judy Patenaude, President
- Mary Tourtillott, Secretary-Treasurer
- Pamela Staidl, Member, Negotiations Committee
- Karen Lefevre, Member, Negotiations Committee

JURISDICTION OF ARBITRATOR

On August 29, 1986, the Parties, Oconto County (Courthouse) (hereinafter referred to as the "County" or "Employer") and the Oconto County Courthouse Employees Local 778-A, AFSCME, AFL-CIO (hereinafter referred to as the "Union") exchanged initial proposals on matters to be included in a new collective bargaining agreement to succeed the agreement which expired on December 31, 1986; that thereafter the Parties met on one occasion in efforts to reach an accord on a new collective bargaining agreement; that on October 22, 1986, the Union filed an instant petition requesting that the Commission initiate arbitration pursuant to Sec. 111.70(4) (cm)6 of the Municipal Employment Act; that on January 6, 1987, Edmond J. Bielarczyk, a member of the Wisconsin Employment Relations Commission's staff, conducted an investigation which reflected that the Parties were deadlocked in their negotiations, and, by January 6, 1987, the Parties submitted to said Investigator their final offers, written positions regarding authorization of inclusion of nonresidents of Wisconsin on the arbitration panel to be submitted by the Commission, as well as a stipulation on matters agreed upon, and thereupon the Investigator notified the Parties that the investigation was closed; and that the said Investigator has advised the Commission that the Parties remain at impasse.

The Commission having, on January 22, 1987, issued an Order requiring that arbitration be initiated for the purpose of resolving the impasse arising in collective bargaining between the Parties on matters affecting wages, hours and conditions of employment of all employees in the Oconto County Courthouse, excluding elected, appointed, supervisory, professional, confidential and managerial employees; and on the same date the Commission having furnished the Parties a panel of arbitrators for the purpose of selecting a single arbitrator to resolve said impasse; and the Commission having, on February 13, 1987, been advised that the Parties had selected Richard John Miller, New Hope, Minnesota as the arbitrator.

An informal mediation session was held on June 4, 1987, at 10 a.m. in the lower conference room of the Oconto County Courthouse Annex, Oconto, Wisconsin. Mediation proved to be unsuccessful. Thereafter, the arbitration proceeding convened. Following receipt of evidence and argument, the County on June 10, 1987, submitted a detailed list of the wage increases for all employees of the Oconto County Sheriff Department. The Employer also submitted on June 17, 1987, a verification of the Forest City settlement, after the record was officially closed. The Parties filed post hearing briefs which were received on July 13, 1987. The Parties had the option to file reply briefs but elected to waive them, with the arbitrator being notified of the same on August 7, 1987.

POSITIONS OF THE PARTIES

This arbitration has only one issue remaining for settlement of a 1987 and 1988 collective bargaining agreement between the Parties. The issue involve the appropriate wage increase for those two contract years. The County's final offer is a 3 1/2% across the board increase effective 1-1-87 with a 2 1/2% across the board increase effective 1-1-88. The Union's final offer is a 3 1/2% across the board increase effective 1-1-87 with a 3 1/2% across the board increase effective 1-1-88. It is clear to see that the Parties are in agreement for the appropriate wage rate effective 1-1-87 at 3 1/2%. The only difference between the Parties is in the second year of the contract with only a one percent difference between the two offers.

ANALYSIS OF THE EVIDENCE

The arbitrator evaluated the final offers of the Parties in light of the criteria set forth in Wis. Stats. 111.70(4)(cm)7, which includes:

- 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.

- E. 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 generally in public employment in the same community and in comparable communities.
- F. 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 in private employment in the same community and in comparable communities.
- G. The average consumer prices for goods and services, commonly known as the cost-of-living.
- H. 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.
- I. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- J. 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.

4. The lawful authority of the municipal employer.

This factor is not an issue in the instant proceedings. The lawful authority of the Employer permits the retention of rights and responsibilities to operate the County Courthouse so as to carry out the statutory mandate and goals assigned to it consistent with the provisions of the collective bargaining agreement between the Parties.

B. Stipulations of the parties.

The Parties have reached agreement on several issues which are shown as agreed upon and stipulated to for 1987 and 1988. (Employer Exhibits #2A, #2B). Consequently, the arbitrator shall include the stipulations as part of the final award in this matter.

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.

The Union did not produce any costing figures with respect to either Parties' final offer. The County, on the other hand, presented detailed financial analysis of both final offers. (Employer Exhibits #6, #7). The total package cost for the County's final offer is 3.9% for 1987 and 2.5% for 1988. (Employer Exhibit #6). The total package cost of the Union's final offer is

3.9% for 1987 and 3.4% for 1988. (Employer Exhibit #7). The Parties are \$11,533 apart for 1988. (Employer Exhibits #6, #7).

The evidence indicates that the farm economy in the County has been hard pressed by the combined forces of reduced federal price supports for milk and international competition. Forty percent of the County land is in farms and nearly seventy-six percent of the population is categorized as "rural" by the U.S. Bureau of Census. (Employer Exhibits #27, #28). Seventeen percent of the earned income comes from farming (Employer Exhibit #29) while seventy-three percent of the cash farm receipts in Oconto County come from dairying. In 1987 alone, the average price from milk declined by seven percent from \$12.84 to \$12.00 per hundred weight. (Employer Exhibit #31).

Similarly, other commodity prices have significantly declined since January, 1984. The price of corn have decreased by fifty-seven percent. Additionally, the price of other commodities has fluctuated in a downward trend. (Employer Exhibit #32).

Despite the gloom of the farm economy, the County never proved that its financial condition was any worst than the other counties in the State of Wisconsin. There is scarcely a community in the state which cannot make the same farm economy argument that is being made by the County in this case. The County's financial condition may be diminished by the local farm economy, yet the Employer never raised the inability to pay argument throughout bargaining, nor at the arbitration proceeding. The fact that the Parties' final offers are only \$11,533 apart for 1988 will not cause a disastrous financial condition to exist if the arbitrator finds for the Union. In fact, the interests and welfare of the public and the financial ability of the County to meet the costs of either Parties' final offer will not be adversely affected by whosoever should prevail in this arbitration.

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.

Arbitral authority in Wisconsin has provided ample direction on the appropriate weight to be given to internal comparables; that is settlements within and between the bargaining units of an employer. In most cases, arbitrators give strong consideration to maintaining some equitable balance between bargaining units of an employer. Jackson County (Sheriff's Department), Dec. No. 21878 (2/85); City of Sheboygan (Water Utilities), Dec. No. 21723 (3/85); City of Kenosha, Dec. No. 12500 (6/74); Waukegan Area VTA/E, Dec. No. 19183; City of Manitowoc (Wastewater Treatment Plant), Dec. No. 17643 (1/81).

The County, in 1984 and 1985, settled with the Courthouse, Highway and Sheriff Department units and granted across the board increases, with only a very few minor variations, similar in all three groups. (Employer Exhibit #9). In 1986, all bargaining unit employees in the County with a few minor exceptions in the Sheriff Department unit, received a 4% wage increase. (Employer Exhibit #9). The few minor exceptions were increases granted to some employees in the Sheriff Department because wage discrepancies existed after an external comparison of those positions was undertaken by that bargaining unit. The County granted those special adjustments to address the wage discrepancies.

The duration of the labor agreements between the County and the respective bargaining units and employee groups vary as follows:

Highway Department - 8/1/86 through 7/31/88
Unified Services (Professionals) - 1/1/87 through 12/31/88
Social Services (Professionals) - calendar year 1987
Sheriff Department Deputies - 1/1/87 through 12/31/88
Unrepresented Employees - calendar year 1987
Courthouse Unit - 1/1/87 through 12/31/88

The internal settlement pattern for 1987 and 1988 for the respective group of employees are as follows:

Highway Department - 3.5% plus an additional 1% in pension contribution (1987); 2.5% (1988).
Unified Services (Professionals) - 3.0% (1987); 3.5% (1988).
Social Services (Professionals) - 3.5% (1987); 1988 (not settled).
Sheriff Department Deputies - 3.5% (1987); 2.5% (1988). In addition seven of the twenty-six employees received wage adjustments over the two years of over 6% per employee above and beyond the across the board increase.
Unrepresented Employees - 3.5% (1987); 1988 (not settled).
Courthouse Unit - 3.5% (1987); 1988 (at impasse with the County's final offer at 2.5% and the Union's final offer at 3.5%). (Union Exhibit #8; Employer Exhibit #10; June 10, 1987 letter from County).

The above evidence clearly demonstrates that for the 1987 contract year, all of the unionized employees have accepted a 2.5% or lower across the board increase. In fact, the Union in this case, concurs with the 1987 settlement pattern by requesting a 2.5% wage increase in their final offer which is identical to the County's final offer.

The Parties are at impasse for the 1988 contract year. The Employer has offered a 2.5% across the board increase which both the Sheriff and Highway Department employees have accepted. The Union has demanded an additional 1.0% for 1988.

The Unified Service employees are the only group who have received to date the request sought by the Union for a 3.5% wage increase for 1988. In unrefuted testimony, County Attorney Dennis Pader explained that the Employer had offered the Unified employees a 3.5% increase in 1987 and a 2.5% increase in 1988 with an additional 1.0% effective July 1, 1988, as a wage adjustment for the social workers in that unit. The union, instead of granting wage adjustments to half of the bargaining unit, instead settled with a 3.0% increase in 1987 and 3.5% increase in 1988. The 1987 wage increase of 3.0% was the lowest in the County which is one-half percent below that which the Courthouse employees are demanding.

The Union argues that their position is justified by the fact that there were wage adjustments granted to the Sheriff Department employees. Seven of the twenty-six employees in the Sheriff Department received wage adjustments over the two years of over 6% per employee above and beyond the across the board increase. The Courthouse employees, by means of the reclassification procedure in their contract (Article X, Section 4, Joint Exhibit #1), may at any time request a wage adjustment. In fact, there currently are three adjustments pending under this contract provision. In addition, these adjustments, unlike the other unionized employee adjustments, are not included in the costing of the wage increase. Also, the Courthouse employees are the only unionized group which has the

right to discuss adjustments with the County Personnel and Wage Committee during the life of the contract term. All of the other unionized employees must address wage adjustments during collective bargaining of a successor contract. Clearly, the Union's attempt to justify their wage increase of 3.5% in 1988 because of the Sheriff Department wage adjustments is not persuasive.

In conclusion, when the two-year cumulative increases are considered, the Union's position of 3.5% for both years, exceeds that what was received by all other Oconto County unionized employees. No convincing rationale (including the wage adjustments given to certain employees of the Sheriff Department) would demand an increase of that magnitude when the majority of County employees have received increases identical to the County's final offer. The internal settlements favor the County's final offer for 1988 of 2.5% over the Union's final offer of 3.5% under this statutory criterion.

E. 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 generally in public employment in the same community and in comparable communities.

This criterion requires the arbitrator to give weight to the comparison of wages with other employees in comparable communities performing similar services. The Union used as its comparables for 1988 the Forest County Highway Department and the Florence County Highway Department. (Union Exhibits #1, #2). The Employer, on the other hand, submits the Parties' final offers should be weighed in comparison to the following counties: Door, Forest, Langlade, Marinette and Shawano. The Employer's group of comparables provide the most appropriate basis for analysis of the settlement trends for 1988 based the similarities of Oconto County to those counties in terms of population (Employer Exhibits #13, #27), full equalized land value (Employer Exhibit #15), equalized tax rate (Employer Exhibit #14); and median family income (Employer Exhibit #16).

Employer Exhibits #18 through #26 surveyed nine positions within the County Courthouse bargaining unit and compared those positions with their set of settled comparable counties for 1987 and 1988. The positions surveyed included: Income Maintenance Worker, Clerk Typist II, Clerk I, Maintenance, Deputy Clerk of Courts, Deputy County Clerk, Deputy Register of Deeds, Terminal Operator and Account Clerk I.

This evidence demonstrates that in 1987, at seven of the nine positions surveyed, both Parties' final offers at 2.5% will meet or exceed the dollar increase granted to other comparable positions. At two of the positions (Terminal Operator and Clerk I), the final offers are below the average by a mere \$.02 and 2.04 per hour respectively. In addition, the relationship of the County Courthouse average wage among the comparables establishes that the County rates at the maximums exceed the average in all classifications in 1987. Thus, both Parties' final offers in 1987 provide average dollar per hour increases which are within the mainstream of the settlements and also provide maximum rates which exceed the average of the comparable employee positions.

In 1988, the County's final offer of 2.5% provides a cents per hour increase identical to the comparable average at four of the eight benchmark positions (Clerk Typist II not settled). At the remaining four positions, the deviation under the County's offer

only ranges from 2.01 to 2.04 per hour below the average. The Union's final offer, at all eight of the benchmarks, exceeds the average cents per hour increase. When the relationship to average maximum rates for 1988 is compared, the County's final offer is far in excess of the comparables, ranging from a minimum of \$1.17 per hour to a maximum of \$2.48 per hour.

Neither Party presented evidence concerning the relationship of percent increases of the benchmark positions among the settled comparables for either 1987 or 1988. Therefore, the dollar increases must be given strong weight. On the basis of the foregoing analysis relative to a comparison of benchmark positions among comparable counties, the Employer's final offer is amply supported by the record. The Union has failed to provide any compelling justification for their excessive wage increase in 1988.

F. 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 in private employment in the same community and in comparable communities.

Neither Party presented any evidence with respect to the settlement trends in private employment in the same community or in comparable communities. This criterion, therefore, has no bearing on the outcome of this case.

G. The average consumer prices for goods and services, commonly known as the cost-of-living.

The latest cost of living figures are for April, 1987. The Consumer Price Index for all Urban Consumers (CPI-U) annualized increase as of April, 1987 was 3.8%. (Union Exhibits #3, #4; Employer Exhibit #8). The Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) annualized increase as of April, 1987 was 3.7%. (Employer Exhibit #8). Since the Parties agreed upon a 3.5% settlement for 1987, they are very close to the annualized increase as of April, 1987.

The problem which exists in this case is that no person, including the expert economic forecasters, can predict the exact Consumer Price increase for 1987, let alone for the year in question, 1988. The Union has introduced four expert sources that have predicted an inflation rate in 1987 between 3.6% and 6%. (Union Exhibits #3, #5-#7). Data Resources, Inc., a respected national econometric forecasting firm, forecasts a 4.4% increase in the cost of living for the second quarter (April-June) of 1988.

Many arbitrators in Wisconsin have concluded that the cost of living is best reflected by internal and external settlements and do not necessarily reflect the actual cost of living. Merrill Area Education Association, Dec. No. 17955, (1/81); Tigerton School District, Dec. No. 23901, (6/86); Two Rivers School District, Dec. No. 37302, (3/87). This concept, of course, should apply in time of low inflation as well as times of high inflation.

In conclusion, the County has clearly demonstrated in a meaningful manner that its offer of 2.5% is more reasonable when viewed in light of the cost of living as measured by the settlement pattern among both the internal and external comparables. The comparable settlements, as demonstrated above, support the County's final offer.

H. The overall compensation presently received by the municipal employees, including direct wage compensation, vacation, holidays and excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

In that the only impasse issue involves wages for 1988, the arbitrator must conclude that the Courthouse bargaining unit employees are satisfied with status of the current benefits.

I. Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

The Parties agreed that the pendency period would end on June 17, 1987. The most recent salary settlements, including the Forest County settlement, have been reported and incorporated into the decision of the arbitrator.

J. 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.

This factor was not given great weight because such other factors normally or traditionally taken into consideration in the determination of the appropriate wage rate for 1988 were already considered in the previous statutory factors.

In summary, the County has shown by clear and convincing evidence that its wage final offer for 1988 of 2.57 is more reasonable than the Union's final offer of 2.5%. Both internal and external comparables establish that the County's final offer is the more reasonable offer before the arbitrator. The cost of living is more accurately predicted by the settlement trend of the comparables which strongly favor the County's final offer.

AWARD

Based upon the statutory criteria in Wis. Stats. 111.70(4) (cn)(7), the evidence and arguments presented in this proceeding, and for the reasons discussed above, the arbitrator selects the final offer of the Oconto County (Courthouse) and directs that it, along with any and all stipulations entered into by the Parties, be incorporated into the 1987 and 1988 collective bargaining agreement.

Richard John Miller

Dated this 6th day of September 1987
New Hope, Minnesota.