

BEFORE THE ARBITRATOR

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In the Matter of Arbitration

Between
Two Rivers Public School District
and
Two Rivers Education Association

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION
Opinion and Award
in Arbitration
Case 23 No. 42407
INT/ARB-5286
Decision No. 26128-A

Appearances:

Dennis W. Rader, Attorney at Law, for Two Rivers Public School District.
Ellen M. MacFarlane, Uniserv Director, Kettle Moraine Uniserv Council, for Two Rivers Education Association.

I. BACKGROUND

The collective bargaining agreement between Two Rivers School District (the District, sometimes the Board) and Two Rivers Education Association (the Association, sometimes the Union) covering wages, hours, and conditions of employment expired June 30, 1989. Because the parties failed to reach a successive agreement for 1989-91, the District petitioned the Wisconsin Employment Relations Commission to initiate arbitration pursuant to Sec. 111.70(4)(cm)(7) of the Municipal Employment Relations Act. A member of the Commission's staff, having completed his investigation, advised the Commission that the parties were deadlocked. Thereupon the Commission ordered that arbitration be had. The parties selected me to arbitrate the matter, and the Commission appointed me on October 10, 1989.

The matter was heard in the City of Two Rivers, Wisconsin, on December 6, 1989. Filing of briefs, which included reply briefs, was completed on March 9, 1990.

II. FINAL OFFERS OF THE PARTIES

The parties were unable to agree upon a salary schedule for both 1989-90 and 1990-91. For 1989-90, the District proposed a BA base of \$20,218 with a scheduled maximum of \$36,966, representing an increase of 4.69%, and for 1990-91, the District proposed a BA base of \$21,122 with a scheduled maximum of \$38,619, representing an increase of 4.47%. For 1989-90, the Association proposed a BA base of \$20,326 with a scheduled maximum of \$37,163, representing an increase of 5.25%, and for 1990-91, the Association proposed a BA base of \$21,322 with a scheduled maximum of \$38,984, representing an increase of 4.90%.

III. THE STATUTORY CRITERIA FOR INTEREST ARBITRATION

Section 111.70(4)(cm)(7), Wisconsin Statutes, requires the arbitrator to "give weight to the following factors" in making his decision:

- "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 employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes performing similar services.
- e. Comparison of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes generally in public employment in the same community and in comparable communities.
- f. Comparison of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceedings with the wages, hours and conditions of employment of other employes 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 employes, 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.
- 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, factfinding, arbitration or otherwise between the parties, in the public service or in private employment."

IV. THE CONTENTIONS OF THE PARTIES

A. Comparability

1. The District

The District contends that the districts comparable to Two Rivers are Brillion, Chilton, Kiel, Manitowoc, Mishicot, New Holstein, Plymouth, Random Lake, Sheboygan Falls and Valders. Arbitrators in four arbitrations, the District stresses, have found the eleven districts comparable because of their geographic proximity and similarity in size and range of economic resources.

2. The Association

The Association offers six groupings of comparables. First, it names as primarily comparable the Eastern Wisconsin Athletic Conference which consists of Chilton, Kewaskum, Kiel, New Holstein, Plymouth, Sheboygan Falls, and Two Rivers. Recognizing that there are no settlements in those districts, the Association makes up a second grouping by adding to them Brillion and Valders. It also adds Manitowoc because of the nearness of that city to Two Rivers.

The third grouping, "Regional lakeshore districts," consists of Algoma, Kewaunee, Luxemburg, and Sturgeon Bay, all of which were settled for 1989-90. "Regional districts in the general area," Appleton, Denmark, Hilbert, Kaukauna, Kimberly, Menasha, and Neenah, also settled for 1989-90, make up the fourth grouping.

The fifth grouping, also settled for 1989-90, embraces thirty-four districts in various parts of the state with 1988 income per tax return between \$22,000 and \$24,000. Lastly, statewide teacher settlements are given.

The several groupings are presented, the Association explains, because they offer examples of patterns and trends in salary settlements in the teaching profession.

The Association considers Manitowoc the district "most comparable" with Two Rivers. It points out that the two cities are the largest in Manitowoc County, are known as "Twin Cities" because they are only a few miles apart, have a joint chamber of commerce, and together promote economic development.

The Association does not ask that Two Rivers have parity with Manitowoc. It complains that the Board's proposed final offer would diminish the slight salary spread now favorable to Two Rivers teachers at the BA-MIN benchmarks and increase the spread now largely in favor of Manitowoc teachers at the MA-MAX benchmarks. As an example of the disproportion at the higher benchmarks, the Association finds fault that Two Rivers teachers are already \$1,059 behind Manitowoc teachers at MA-10.

B. Salary Schedules

1. The District

There have been two settlements and two certified final offers during the years involved. Brillion is certified for 1989-91 while Valders is settled for only 1989-90. One of the certified offers is in the matter of Sheboygan Falls. The other certified offer is that of Manitowoc, but I do not have knowledge of the items of longevity and total compensation.

In support of its position that the Board's final offer is closer than the Union's final offer to the Brillion and Valders settlements and the Sheboygan Falls final offer, the District has tabulated for comparison both Wages & Longevity and Total Compensation in the four districts.

		Wages & Longevity		Total Compensation	
		\$	%	\$	%
Brillion	1989-90	\$1,620	6.04%	\$2,433	6.83%
	1990-91	<u>1,780</u>	<u>6.42%</u>	<u>2,525</u>	<u>6.87%</u>
	Average	1,700	6.23%	2,479	6.85%
Sheboygan Falls Bd.	1989-90	1,640	5.86%	2,567	6.91%
	1990-91	<u>1,642</u>	<u>5.54%</u>	<u>2,691</u>	<u>6.77%</u>
	Average	1,641	5.70%	2,629	6.84%
Assn.	1989-90	1,896	6.77%	3,005	8.10%
	1990-91	<u>1,899</u>	<u>6.35%</u>	<u>3,041</u>	<u>7.57%</u>
	Average	1,898	6.56%	3,023	7.84%
Valders	1989-90	1,631	6.10%	2,370	6.73%
Two Rivers Bd.	1989-90	1,601	5.35%	2,592	6.53%
	1990-91	<u>1,602</u>	<u>5.10%</u>	<u>2,780</u>	<u>6.60%</u>
	Average	1,601	5.23%	2,686	6.56%
Assn.	1989-90	1,768	5.91%	2,801	7.10%
	1990-91	<u>1,747</u>	<u>5.52%</u>	<u>2,960</u>	<u>7.00%</u>
	Average	1,758	5.71%	2,881	7.05%

The District considers total compensation relevant because the Board pays the full cost of health and dental insurance and, in addition, pays 60% of a life insurance policy and fully pays for disability insurance.

The District argues that the usual benchmark analysis of final offers would be faulty in this matter because a large majority of the Two Rivers teachers are on the maximum or longevity steps of the salary schedule. In 1988-89, according to the District's calculations, 76.6% of the staff were on the higher steps, and in 1990-91 the percentage will increase to 78.2%. Contending that arbitrators in such situations have found it proper to disregard the lanes occupied by relatively few teachers in analyzing the impact of the salary schedule, the District presents the following table to show that the Board's final offer is substantially above average at the maximum steps where the majority of the Two Rivers teachers are positioned:

	1987-88	Two Rivers Relates to <u>Average</u>	1988-89	Two Rivers Relates to <u>Average</u>
<u>BA+O Minimum</u>				
Average of Comparables	\$18,072		\$19,206	
Two Rivers	18,392	\$320/1.77% over ave.	19,312	\$106/.55% over ave.
<u>BA+O Maximum - No Longevity</u>				
Average of Comparables	27,768		29,278	
Two Rivers	27,482	\$286/1.03% below ave.	28,856	\$422/1.44% below ave.
<u>BA+O Maximum - W/Longevity</u>				
Average of Comparables	28,241		29,779	
Two Rivers	28,513	\$272/.96% over ave.	29,939	\$160/.54% over ave.
<u>MA+O Minimum</u>				
Average of Comparables	\$19,556		\$20,786	
Two Rivers	20,035	\$479/2.45% over ave.	21,037	\$251/1.21% over ave.
<u>MA+O Maximum - No Longevity</u>				
Average of Comparables	30,881		32,574	
Two Rivers	31,513	\$632/2.05% over ave.	33,089	\$515/1.58% over ave.
<u>MA+O Maximum - W/Longevity</u>				
Average of Comparables	31,465		33,191	
Two Rivers	32,544	\$1,079/3.43% over ave.	34,172	\$981/2.95% over ave.
<u>Schedule Maximum - No Longevity</u>				
Average of Comparables	\$31,751		\$33,503	
Two Rivers	33,628	\$1,877/5.91% over ave.	35,309	\$1,806/5.39% over ave.
<u>Schedule Maximum - W/Longevity</u>				
Average of Comparables	32,338		34,125	
Two Rivers	34,659	\$2,321/7.18% over ave.	36,392	\$2,267/6.64% over ave.

Next, the District considers the cost of living factor. By what it terms a "traditional comparison," the District compares wage increases during the last eight years with increases in the Consumer Price Index and finds that the cumulative wage increases proposed by both the Board and the Union substantially exceed the increases in the Consumer Price Index. For 1988-89, the increase is about equal to the CPI increase while the increase in total compensation was almost 2% higher.

Similarly, the District contends that the Board's final offer compares favorably with increases in wages paid other employees in public employment, as well as other employees in private employment working in the same community and in comparable communities.

2. The Association

The Association objects to the District's inclusion of the cost of medical and dental insurance for the benefit of teachers as an item of overall compensation, contending that the sole issue in this arbitration is the salary schedule and that total package costs, of which insurance is a major cost, are irrelevant.

The District's ability to pay the higher salary proposed by the Union is superior, the Association insists. It points out that Two Rivers with a school cost of \$3,536.97 in 1987-88 ranked sixth out of the seven schools belonging to the Eastern Wisconsin Athletic Conference, again the grouping which the Association considers primarily comparable. Moreover, the Association's argument continues, although Two Rivers ranks the lowest in equalized value per member, it has enjoyed a 3.11% increase over 1986-87. Ranking third in the amount of state aid received, its levy rate is below average.

The Association presents a table comparing the final offers of the Board and the Union with the average salary of Brillion, Manitowoc, and Valders for 1989-90 at six benchmarks. Acknowledging that the size of the districts varies, the Association maintains that the comparison is nevertheless useful because the districts are in the same general area and subject to the same economic conditions:

	1989-90 Average	UN (Diff)	BD (Diff)
BA-MIN	19771	20326 (+555)	20218 (+447)
BA-7	25468	24963 (-505)	24830 (-638)
BA-MAX	31237	30371 (-866)	30210 (-1027)
MA-MIN	21912	22142 (+230)	22024 (+112)
MA-10	31061	29752 (-1309)	29594 (-1467)
MA-MAX	34714	34826 (+112)	34641 (-73)

From the table, the Association infers that the Board's final offer "tends to lag behind in the higher levels" and concludes that examination of any one of the foregoing factors establishes that the

Union's final offer is the more reasonable and that the Board's final offer falls below the settlement patterns.

Averaging dollars per returning teacher in each of its groupings of comparables, the Association contends that the Union is substantially closer than the Board in their respective final offers. Likewise, a difference favorable to the Association is found in its comparison with averages of statewide districts.

The Association also argues that teachers should not be compared with other employees in public employment or with employees in private employment unless settlements between boards and unions are wanting. It added that little weight should be given the Consumer Price Index where teachers salaries are involved.

Finally, the Association asks that consideration be given to the fact that Two Rivers teachers have been without a wage increase for the larger part of the 1989-90 school year.

V. DISCUSSION AND FINDINGS

Comparison of wages, hours, and conditions of employment of municipal employees in an arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services need no longer be limited to comparable communities. The limitation was removed in an amendment to the statute, effective May 7, 1986. Notwithstanding, arbitrators have been reluctant to abandon groupings of districts once found comparable unless their comparability has been lessened during the intervening years.

The need for stability and predictability has long been considered paramount in wage negotiations. Employees are more likely to be content with salaries reasonably close to the salaries of workers performing similar services for other employers in near areas.

There is not an apparent ground for changing the composition of the eleven districts found comparable in the four arbitrations. Manitowoc alone seems somewhat out of place, but when it is averaged with the other ten districts there is little distortion. Generally, the factors underlying the findings of comparability in the four matters have not changed greatly: equalized value per member, range of enrollment, full time equivalent teaching staff, historical mill rates, tax levy rates, and total income tax per filer. In such circumstances, it would be idle for an arbitrator to consider settlements in communities more distant or more affluent. Statewide averages in these matters, it seems to me, are equally inconsiderable.

I do not find significant the Association's comparison of the average dollars per returning teacher for Brillion, Valders, and Manitowoc for 1989-90. For that year, it will be recalled that Brillion and Valders are settled and that Manitowoc's final offer is certified. For Brillion the average is \$1620, for Valders it is \$1631, and for Manitowoc it is \$1970; the three districts averaging \$1740. The Association finds that the Board, with a proposal of \$1500, is \$140 below that average, and the Union, with a proposal of \$1768, is \$28 above that average.

Two Rivers and Manitowoc are not closely comparable in a matter in interest arbitration. Manitowoc is the metropolis of the eleven districts. Its equalized value is \$193,991 compared with Two Rivers' \$127,121, its FTE staff and number of pupils are almost double those of Two Rivers, and its industrial tax base is almost twice as large.

Averaging Manitowoc with two relatively small districts such as Brillion and Valders results in distortion. The inclusion of another small district, Sheboygan Falls, markedly changes the relative positions of the parties; the Union final offer increases from \$28 to \$55 above average per returning teacher while the Board final offer decreases from \$140 to \$113 below average. And when the remaining districts in the grouping of comparables are eventually settled for 1989-91, it would not be surprising if the differences in average salary increases per returning teacher among the eleven districts will have become almost negligible.

I am not certain that the Board's final offer would affect the existing spread between the salaries of Two Rivers teachers and Manitowoc teachers to the comparative disadvantage of Two Rivers teachers, as thought by the Association. In any event, I do not believe that it can be a determinative consideration in weighing the merit of a final offer calling for an across-the-board increase in the salaries of one of many comparable districts.

The Board's final offer is closer than the Union's to the average of wages with longevity and total compensation in Brillion for 1989-91, in Valders for 1989-90, and in the Sheboygan Falls final offers for both years. "Overall compensation," which includes "insurance and pensions, medical and hospitalization benefits," is made a factor for arbitrator consideration by sub. h of Sec. 111.70(4)(cm)(7). Such benefits may properly be considered along with wages.

For 1989-90, comparing the Board's and the Union's schedule maximums with the schedule maximums of Brillion, Valders and Manitowoc, and the average of the Sheboygan Falls final offers, the Board's schedule maximum is the closer of the two. The same is true for 1990-91, omitting Valders whose schedule maximum is not known for that year. The Board's schedule maximum is \$1,126 lower than Manitowoc's for 1989-90 and \$1,187 lower for 1990-91.

The majority of Two Rivers teachers is on the maximum or longevity steps of the salary schedule. For 1987-89, their salaries were in excess of the average of the comparables at the customary benchmarks. At MA+0 Maximum, no Longevity, the Board's offer is almost \$1,000 over the average, and at Schedule Maximum, with Longevity, it is more than \$2,000 over the average. Two Rivers salaries were higher than the average of the salaries of the other ten districts during 1987-89, and it seems likely that they will continue to compare favorably in future settlements, at least during the next few years.

Finally, it appears that the Board's offer for 1989-90 exceeds the increase in the Consumer Price Index, and the increases in the wages of other employees in public employment and in private employment in the same and comparable communities. Arbitrators have not often given


such factors great weight because of the dissimilarity of the occupations and the methods by which the salaries were determined.

There is not an immense salary difference in the final offers of the parties. The comparisons with comparable districts for the most part favor the selection of the Board's final offer. Had the parties been successful in their efforts to accomplish a voluntary settlement, I think it likely that the salaries agreed upon would have been somewhat closer to the Board's final offer than they would have been to the Union's final offer.

AWARD

The final offer of the Two Rivers Public School Board is selected.

Dated at Madison, Wisconsin, this 3/10 day of March, 1990.



Leonard Bessman
Arbitrator

LB/sf