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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STATE OF WISCONSIN

BEFORE THE ARBITRATOR

In the Matter of the Petition of LA CROSSE COUNTY CERTAIN EMPLOYEES, LOCAL 2484, AFSCME, AFL-CIO To Initiate Arbitration Between Said Petitioner and LA CROSSE COUNTY	Case 117 No. 43365 INT/ARB-5525 Decision No. 26627-A

Appearances:

Mr. Daniel R Pfeifer, Staff Representative, Wisconsin Council 40, AFSCME, AFL-CIO, appearing on behalf of the Union.

Mr. Robert B Jaunt, Personnel Director, La Crosse County, appearing on behalf of the Employer.

ARBITRATION AWARD:

On October 22, 1990, the undersigned was appointed to serve as Arbitrator by the Wisconsin Employment Relations Commission, pursuant to Section 111.70 (4) (cm) 6. and 7. of the Municipal Employment Relations Act, to resolve an impasse existing between Local 2484, AFSCME, AFL-CIO, referred to herein as the Union, and La Crosse County, referred to herein as the County or the Employer. A hearing was held at La Crosse, Wisconsin, on December 10, 1990, at which time the parties were present and given full opportunity to present oral and written evidence, and to make relevant argument. The proceedings were not transcribed; however, briefs and responses were filed in the matter. The final response was exchanged on March 1, 1991.

THE ISSUES:

The issues in dispute between the parties are reflected in their final offers as follows:

1. County's Final Offer

   A. Health and Dental Insurance. Effective 1/1/90, the County will contribute up to 95% of the highest premium for health insurance, expressed in dollar terms and Courthouse union employees will contribute up to 5%, expressed in dollar terms of the 1990

premium for health insurance depending on the option selected. The options include health monitor plan which is fully paid under this formula. Effective 1/1/90, union members will contribute an amount for dental insurance premium equal to the 1989 percentage contributed but applied to 1990 rates. expressed in dollar terms.

The last sentence of Section 18.02.2 which refers to the prior contract enrollment period shall be deleted for housekeeping purposes.

Effective for 1991, health and dental insurance contribution by employees will remain at the same dollar amount as in 1990 and the County will pick up any increases.

B. Wage Increase.

Effective 12/31/89, $.15 per hour across-the-board increase to each step of the wage scale.

Effective 7/1/90, $.15 per hour across-the-board increase to each step of the wage scale.

Effective 12/30/90, $.30 per hour across-the-board increase to each step of the wage scale.

The wage increase would be effective for those employees covered by this agreement who are employed by the County on the date of ratification or award.

C. Contract period is for two years covering 1990 and 1991.

D. Tentative agreements reached with the union will be incorporated into the contract.

E. All other items remain the same.

2. Union's Final Offer

A) Section 4.05.1 - Last sentence to be modified to read "The Union may establish a three-tier dues structure. (Effective upon ratification)

B) Section 18.02 - Effective 1/1/90, the County will contribute the amounts set forth below as Health and Dental benefit to the monthly premium of the County's Employee Health and Dental Plan. In 1991, the County will pay the full amount of any increase in premiums for the dental plan. The employee will bear the cost in excess of the County's contribution for the option selected:

(1) Family:	Standard Plan	95%
	Health Monitor Plan	100%
	Dental Plan	$39.59
(2) Single:	Standard Plan	95%
	Health Monitor Plan	100%
	Dental Plan	$14.60

All employees participating in the group's Health Plan shall comply with those cost containment features set forth in the County Employee Health

Benefits Plan.

There shall be two (2) options for employees to choose their level of participation in the Health Plan.

Section 18.02.1 - Shall remain as currently written.

Section 18.02.2 - Shall remain as currently written. except that the last sentence shall be deleted as housekeeping.

C) Wages shall be increased as follows.

Effective 12/31/89 - 2%
Effective 7/1/90 - 2%
Effective 12/30/90 - 4.5%

D) Adjustments:

Effective 12/31/89:	Grade
1) IM Asst. to Economic Support Specialist I*	3 to 6
2) IM Worker to Economic Support Specialist II	9 to 12
3) IM Lead to Economic Support Specialist III	12 to 14
4) GR Clerk to Economic Support Clerk (Manley)	6 to 7
5) Bernett to Economic Support Clerk	1 to 7
6) Deputy Treasurer	12 to 14
7) Library Clerk. Entry*	1
8) CU-2 Delete "Branch" (Advancement from CU-1)	
9) Main Librarian I* (Gromacki)	1 to 5
10) Main Librarian II* (Layland)	5 to 7
11) Main Librarian III	9
12) MA Clerk to Economic Support Clerk (Dierkop)	7
13) IM Clerk to Economic Support Clerk (Peterson)	7

Effective 7/12/90

1) Assistant Probate Registrar	14

Effective 12/30/90

1) Economic Support Clerk	7 to 8
2) Social Services Aide I*	3 to 6
3) Social Services Aide II	9 to 12
4) Lead Building Maintenance Worker	11 to 12

E) Section 26.01 - Duration - 1/1/90-12/31/91.

F) Provisions retroactive to 1/1/90, except as provided otherwise.

G) All items not addressed in the Union's Final Offer or the Stipulations to remain as in the 1988-1989 Agreement between the parties.

DISCUSSION:

Wis. Stats. Sec. 111.70 (4) (cm) 7 direct the Arbitrator to

give weight to the factors found at subsections a through j when making decisions under the arbitration procedures authorized in that paragraph. The undersigned, therefore, will review the evidence adduced at hearing and consider the arguments of the parties in light of that statutory criteria.

As seen by comparing the final offers set forth in the preceding section of this award, the issues in dispute between the parties involve:

1. The general wage increase.
2. The equity adjustments proposed by the Union.
3. The health insurance contribution the Employer makes on behalf of its employees.
4. The amount of dental insurance contribution the Employer makes on behalf of its employees.
5. The Union's proposal that the amount of dues deduction made by the Employer be established at a three-tier level rather than the two-tier level found in the predecessor agreement.

A careful consideration of the parties' final offers causes the undersigned to agree with the Union observation found at page 5 of its brief wherein the Union states: "Probably the main difference between the parties is the existence of the adjustments that the Union is seeking for various positions within the bargaining unit." When considering the difference between the parties' wage proposals, they are virtually in agreement for the amount of general increase for the first year of the contract where the Employer proposes $.15 per hour effective December 31, 1989, and $.15 per hour effective July 1, 1990. The Union in the first year proposes a 2% increase effective December 31, 1989, and a 2% increase effective July 1, 1990. The cost of these increases are virtually the same, the sole difference being that the Employer expresses the increase as a cents per hour figure and the Union as a percentage increase. In the second year of the agreement the Employer proposes $.30 across-the-board effective December 30, 1990, and the Union proposes 4 1/2% increase effective December 30, 1990. The Union calculates the Employer's proposed increase to be 3.76% over the wages that were in effect at the end of the first year of the agreement and the Union

obviously is at 4.5%. Thus, for over the two years there is a 3/4 of 1% differential between the parties' offers as it relates to the general increase. The undersigned is satisfied that the difference between the parties' offers on a general wage increase is not so significant so as to override the primacy of the equity adjustments which the Union proposes.

The undersigned has also considered the health insurance proposals of the parties. The primary difference between the parties' position on hospitalization-medical insurance is that the Union proposes a 95% premium participation for family coverage whereas the Employer proposes a dollar amount equivalent to 95% over the term of the agreement. The Union's concern is that during the hiatus period, if there is one between the expiration date of the present agreement and the effective date of the successor agreement, employees are required to pick up an amount over and above the 5% which they are required to pick up during the term of the agreement. Again, the undersigned is satisfied that the differences in the parties' position with respect to hospitalization-medical insurance is not sufficiently significant so as to override the primacy of the equity adjustment issue.

Similarly, with dental insurance the Employer proposes that the provisions of dental insurance be modified so as to conform to the manner in which the Employer agrees to pay the hospitalization-medical insurance premiums on behalf of its employees. The Union proposes that the language of the predecessor agreement will remain unchanged where the Employer continues to pick up any premium increases which occur after the year 1985. Again the undersigned is satisfied that this dispute is not sufficiently serious so as to outweigh the primacy of the equity adjustment dispute.

Finally, the undersigned has reviewed and fully understands the Union's proposal for the three-tier dues deduction. As the Union argues at page 18 of its brief: "The last and probably the

least onerous issue the Union will address is that of the Union's offer relative to the dues structure. The Union does not believe that this issue will carry much weight relative to the other areas at issue in the instant case. It follows from the foregoing that the dues structure issue will also be decided by the outcome of the equity adjustment issue.

Having concluded that the equity adjustment issue is the primary issue: and having further concluded that the remaining issues as set forth in the preceding paragraphs are not sufficiently significant so as to determine the outcome of this arbitration proceeding; it follows that the party which prevails on the equity issue will have its final offer awarded.

The Union contends that it has reviewed all of the various requests made by employees in the bargaining unit for adjustments and selected those position that were the furthest behind as compared to those counties which the Union argues are comparable to La Crosse County. The Union cites Jackson County, Case 66, No. 41792 INT/ARB-5183, Decision No. 26079-A, (Kerkman 3/1/90). Specifically the Union relies on this Arbitrator's holdings therein as follows: 'Rather than attempt to cure this differential of pay between the two units by applying a general increase, it is clear to the undersigned that the grade structure and slotting of positions into those grade structures in the courthouse unit needs to be renegotiated

The Employer argues that the undersigned has found in Jackson County that these equity-type adjustments should be renegotiated and contends therefrom that the equity adjustment should not be awarded by an Arbitrator The undersigned disagrees with the Employer's position. While it is true that it is preferable for the parties to negotiate these type of equity adjustments. it nevertheless is the duty of the Arbitrator to make an award of an equity adjustment where the evidence establishes that inequities exist which need to be corrected. It is axiomatic that

it is always preferable for the parties to come to terms and negotiate revisions voluntarily rather than to have them awarded however, it is the very essence and purpose of the arbitration statute that where parties are unable to reach a voluntary agreement, the Arbitrator's responsibility is to award the final offer which the evidence supports.

Having concluded that it is appropriate to consider the inequities proposed by the Union and award them if proven, it remains to be determined whether the Union has carried its burden of establishing that the adjustments it proposes are supported by clear and convincing evidence The requirement that the evidence be clear and convincing is paramount in view of the fact that the adjustments or reclassifications proposed by the Union result in adjustments ranging from 3.2% to 11.5% over and above the general increase which the Union proposes.

The Union has adduced evidence with respect to its proposed reclassification adjustments based on rates of pay for comparable positions among counties which the Union has deemed to be comparable. However, the comparables upon which the Union relies differ from the comparables which the Employer proposes. The Employer proposes that comparisons be made on the following counties: Dodge, Eau Claire, Fond du Lac, Manitowoc, Marathon, Sheboygan, Walworth, Washington, Wood, Jackson, Monroe, Trempealeau and Vernon. The Union relies on the following counties for their comparisons: Dodge, Eau Claire, Fond du Lac, Jefferson, Manitowoc, Marathon, Monroe, Ozaukee, Sheboygan, St. Croix, Walworth, Washington and Wood. In addition, the Union relies on the City of Eau Claire and the State of Wisconsin solely for the purposes of making comparisons of wage rates for library employees because there is a limited amount of data available for library employees in comparable counties. Thus, the County would add to the Union comparables Jackson, Vernon and Trempealeau Counties because they are adjacent to La Crosse County and would

delete from the Union comparables Jefferson, Ozaukee and St. Croix because of the differential in populations. The Union's set of comparables are those that were utilized by this Arbitrator in a La Crosse County Sheriff's Department arbitration a number of years ago.

The undersigned finds it unnecessary to resolve dispute as to the comparables. Here we are concerned with the question of whether the evidence clearly and convincingly establishes a need for the adjustments or reclassifications as proposed by the Union. The Union has provided wage data for the classifications which it is seeking to reclassify from comparable counties. The undersigned, however, is of the opinion that merely comparing wage rate to wage rate for similar classifications fails to establish the clear and convincing evidence necessary to support the reclassifications the Union seeks. In seeking reclassifications it is essential in the judgment of this Arbitrator that the relative ranking of one position to another be considered when determining whether that position is properly classified. It follows from the foregoing that if the Union is to be successful in providing clear and convincing evidence that the positions it seeks to reclassify are improperly classified presently, it must establish that by showing that the relationships of those positions in other Counties are significantly higher compared to other positions in the comparable counties than the positions in question are in La Crosse County. Because it is the relationship between the positions that will justify or fail to justify the reclassifications the Union seeks, the undersigned concludes that it is appropriate to consider all of the data in this record irrespective of whether the other counties might be appropriate comparables in making determinations other than these reclassifications.

We now consider what the evidence shows with respect to the relationships between the proposed adjustments and the remaining

positions in the wage structure compared with the relative positions of these same jobs in the comparable communities. The Arbitrator concludes that the evidence fails to support the Union offer. For example, the record fails to support the improved relationships which the reclasses sought by the Union would establish. The Wage Appendix of the predecessor contract shows that a Clerk/Typist I is in Pay Grade 1 and that an Income Maintenance Assistant is in Pay Grade 3. Union Exhibit 72 is the agreement in Marathon County with AFSCME Local 2492. The Wage Appendix of the Marathon agreement shows that the Clerk/Typist I is in their Range B and that Income Maintenance Assistant is in Pay Range C, one level higher. This appears to be the same relative position between the two jobs as is found in the predecessor agreement in La Crosse County. It is further noted that in Marathon County the Clerk/Typist III position and the Terminal Operator position are slotted one range higher than the Income Maintenance Assistant position. This squares with the slotting of Income Maintenance Assistant in La Crosse County where the position of Advanced Typist is slotted one grade higher than the position of Income Maintenance Assistant and the position of Terminal Operator is slotted two grades higher than the position of Income Maintenance Assistant. These comparisons satisfy the Arbitrator that the relationship between the position of Clerk/Typist and Income Maintenance Assistant need not be improved as the Union proposes.

Similarly, we find in Union Exhibit 74 the Wage Appendix of the Ozaukee County agreement with OPEIU Local 35. In that agreement the position of Income Maintenance Worker is slotted in Grade 6, the same grade as the position of Clerk/Typist III. In the predecessor La Crosse County agreement, the position of Income Maintenance Worker is slotted in Grade 9.

two grades higher than the position of Lead Typist and five grades higher than the position of Advanced Typist. The reclassed Grade 12 for Income Maintenance Worker is not supported by this comparison.

Union Exhibit 76 is the Sheboygan County Collective Bargaining Agreement with AFSCME Local 110. In that agreement we find that the position of Income Maintenance Worker Assistant is slotted three levels higher than the position of Clerk/Typist I and one level higher than the position of Terminal Operator I and one level lower than the position of Terminal Operator II. In the predecessor agreement in La Crosse County, the Income Maintenance Assistant position is slotted two levels higher than the Typist Entry position and three levels lower than the position of Terminal Operator. The undersigned concludes from the foregoing that this comparison also fails to support the reclassification sought by the Union.

In St. Croix County (Union Exhibit 77) the Collective Bargaining Agreement with AFSCME Local 576-A shows that the Special Services Aide II is slotted at approximately the same level as the position of Clerk III and the position of Typist III. The predecessor agreement in La Crosse County shows that the position of Social Services Aide II is slotted two grades higher than the position of Lead Typist and the position of the Lead Stenographer. Once again this comparison fails to support the reclassification from Grade 9 to Grade 12 which the Union seeks for the position of Social Services Aide II.

In Wood County (Union Exhibit 81) the Wage Appendix in the Collective Bargaining Agreement with AFSCME Local 2486 slots the position of Income Maintenance Assistant and Social Services Aide I at one level higher than the position of Stenographer I and one level lower than the position of

Terminal Operator I. The slotting of the position of Income Maintenance Worker Assistant and Social Services Aide I in Wood County more nearly conforms to the slotting in the predecessor agreement in La Crosse County than to the proposed reclassification of the Union.

The comparisons in the preceding four paragraphs reinforce the conclusion of the Arbitrator that the Union has failed to carry its burden of proof to support the reclassifications it seeks. While the foregoing comparisons are not the sole means by which propriety of reclassifications can be established, there is no other evidence in the record which is perceptible to this Arbitrator which would establish the necessary proof. Lacking a sufficient amount of comparative type evidence among comparable communities, the Union might have provided convincing and persuasive evidence in support of its reclasses if they had been able to adduce expert testimony from a job evaluation expert which would support the proposed reclassifications. Here there was limited amount of testimony adduced by the Union with respect to its method of determining which reclasses to pursue and the levels to which the positions should be reclassified. On cross-examination, however, the witnesses admitted that they lacked expertise in the art of job evaluation. Consequently, the undersigned concludes that there is no satisfactory evidence to establish that the positions which the Union seeks to reclassify are improperly ranked in relation to the remaining classifications which the Union proposes to leave unchanged.

While there may be certain of the classifications which appear to warrant a reclassification adjustment, notably Deputy Treasurer and Lead Building Maintenance Worker, the undersigned is without authority to select individual positions for reclassifications. Pursuant to the jurisdiction conferred upon the Arbitrator by the statute, he must either find that the Union

offer in its entirety is supported by the evidence or that it is not. Because the undersigned concludes that the record fails to support the Union proposal with respect to all of the reclassifications, it follows that the Union offer must be rejected for that reason.

Earlier the undersigned has concluded that the primary issue in determining the outcome of this dispute is that of reclassifications. The Arbitrator has determined that the Union has failed to establish that the adjustments which it seeks are supported by the evidence, it follows therefrom that the Union offer in its entirety must be rejected and that the Employer offer is to be awarded.

Therefore, based on the record in its entirety, and the discussion set forth above, after considering all of the arguments of the parties and the statutory criteria, the Arbitrator makes the following:

AWARD

The final offer of the Employer, along with the stipulations of the parties as furnished to the Wisconsin Employment Relations Commission, as well as those terms of the predecessor Collective Bargaining Agreement which remain unchanged through the course of bargaining are to be incorporated into the parties' written Collective Bargaining Agreement for 1990 and 1991.

Dated at Fond du Lac, Wisconsin, this 19th day of April, 1991.

Jos. B Kerkman
Arbitrator

JHK:md