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STATE OF WISCONSIN
BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of an Interest Arbitration :
between :
NORTHWEST UNITED EDUCATORS : Case 15
and : No. 47940
BIRCHWOOD SCHOOL DISTRICT : INT/ARB-6587
: Decision No. 27452-A
:

Appearances:

Kenneth J. Berg, Executive Director, Northwest United Educators, appearing on behalf of the Northwest United Educators.

Edsel Vergin, School District Administrator and Edwin H. Kutz, School Board member, Birchwood Public Schools appearing on behalf of the Birchwood School District.

Background

The Northwest United Educators, hereafter the Association, and the Birchwood School District, hereafter the District, are parties to a collective bargaining agreement the terms of which will expire on June 30, 1993. On May 4, 1992, the parties exchanged initial proposals covered by a reopener clause in the collective bargaining agreement. The parties met once thereafter and on August 4, 1992 the Association filed a petition with the Wisconsin Employment Relations Commission to initiate arbitration pursuant to Sec. 111.70(cm)6 of the Municipal Employment Relations Act.

On January 5, 1993 the WERC, on the advice of the parties, appointed the undersigned to arbitrate the dispute. A hearing was held on held on March 24, 1993 in Birchwood, Wisconsin at which time the parties were present and given full opportunity to present

written and oral evidence. Briefs were filed by the parties and exchanged through the arbitrator on April 26, 1993.

Final Offers of the Parties

District's Final Offer

A wage increase of 4.25% to the support staff

Association's Final Offer

1. Upgrade custodial position by \$.20 per hour
2. Upgrade secretarial position by \$.25 per hour
3. After upgrading, increase all classifications by 4.25%
4. 1992-93 contract

Statutory Criteria

As set forth in Wis. Stats. 111.70(4)(cm)7, the arbitrator is to consider the following criteria:

- 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 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, fact finding, arbitration or otherwise between the parties in the public service or in private employment.

Positions of the Parties

District's Position

The central argument of the District is that no salary upgrading of the two positions is necessary. In the first place, says the District, both positions were upgraded for the 1991-92 contract year. Second, upgrading suggests that the employees in question were either promoted or assigned additional duties and responsibilities. Neither situation has occurred in the District since the last upgrading was implemented. Thus, asserts the District, the employees working in the custodial and secretarial positions continue to perform the same job duties. The only changes are in job titles and increased time of employment.

According to the District, the secretarial position received its current title in 1991 at which point it's salary was upgraded by \$1.20 per hour plus a 4% increase. The only duty change occurring since that time is the designation of the position as the school

health person.

Pointing to the custodial position, the District also notes that this job likewise has been retitled. Similarly, it received its own salary upgrade of \$1.27 per hour plus 4% concurrent with the increases granted to the secretarial position.

Finally, the District contends that attempts to draw comparisons between the pay of Birchwood's custodial and secretarial positions with those of similar titles in the District's athletic conference are not valid. On the one hand, while the Birchwood position carries the title of "secretary", the duties are of a lesser position. Therefore, contends the District, salary comparisons with secretarial positions in other districts are not appropriate. In a similar vein, the District also argues that it is impossible to know precisely the duties of custodians at other conference schools. Hence, these comparisons, as well, are inapplicable.

Association's Position

The Association grounds its position on the following arguments. First, it contends that additional duties have been assigned to both positions. In the case of the secretarial job new duties were added when the prior secretary was promoted to an administrative position in the district. In addition, the Association also views the incorporation of the school health activities as an important change.

In a similar fashion, the fact that the custodial worker now supervises an adult worker plus a student adds to that position's

responsibilities. And, as the job was upgraded from part-time to full-time it acquired additional cleaning activities.

Second, the Association contends that an internal comparison is also appropriate. For example, both positions in question evolved from lower level jobs: custodial aide to custodian and office aide to secretary. In turn, the former custodian position was reorganized as custodian-maintenance while the prior secretary was promoted to an administrative position. In both cases, concludes the Association, the individuals holding the custodian and secretary jobs will be paid less than the previous occupants were receiving in 1990-91.

Third, using the District's athletic conference as a set of external comparables, the Association attempts to demonstrate that the District's custodial and secretarial positions are underpaid. Focussing first on the custodial worker, the Association maintains that the average of the lowest paid conference custodial position is \$.28 higher than the District's custodian. At the high end, the difference between the average custodial salary and that at the District would be \$1.00.

Comparable Conference statistics applied to the secretarial position, according to the Association, reveal an identical pattern: \$.58 at the lower end and \$1.07 less than the average for the highest paid secretaries. Even if its final offer were adopted, concludes the Association, the secretary "would still be \$.30 per hour less than the low average and \$.76 per hour less than the high average for the other schools in the conference."

Finally, the Association disputes the District's point that comparisons can not be drawn between the District's positions and those carrying the same title in the other schools of the conference. A custodian is a custodian wherever the work is performed. To call them anything else, says the Association is "farfetched."

In sum, says the Association, "It is true that both positions were upgraded in the 1991-92 contract year but not to the level that we believe is fair and adequate."

Discussion

Costing of the Final Offers

The parties are in dispute only over the additional hourly pay to be received by two employees. There is agreement that the District will provide an across-the board salary increase of 4.25% for all bargaining unit employees in 1992-93. However, the Association proposes, in addition, that the District's secretary and custodial workers each receive an upgrade of \$.25 and \$.20 per hour respectively before the general wage increase is implemented.

The salary upgrade for the two positions will cost the District \$840.25.

Evaluation of the Parties' Positions

The Association's proposal for an increase in the hourly pay for the secretarial and custodial positions rests essentially on two arguments: (1) an increase in the duties and responsibilities of each position; and (2) the comparative salaries paid to the equivalent jobs in the District's athletic conference.

Changes in Job Content

On point one, the District asserts that although the first position carries the title "secretary" it is something less. Further, it also argues that the custodial work performed at Birchwood is not equivalent to that carried out in the other districts of the Lakeland Conference. No written job descriptions for either of the two positions were placed in the record by the parties. However, the Association provided ample testimony concerning the nature of both jobs from the current position occupants. The weight of this testimony supports the conclusion that the duties and responsibilities of each position would meet a commonly accepted definition of secretary and custodian.

The District contends that the two positions were upgraded for the first year of the 1991-93 contract and that no significant changes in job duties have occurred since then to warrant further upgrading. The burden to provide convincing evidence that such changes have occurred rests with the Association. It does not do so to the satisfaction of the arbitrator. Thus, for example, the custodian testified that she has performed essentially the same activities for the past five years. The major difference is that her work time has been extended to 12 months.

The secretarial position has evolved from an office aide into a full fledged secretary. Some duties such as the health person continue to be added. Yet, it is not clear how important these additional duties are and at what point they have become a permanent part of the position. By itself, the health care duties

are not enough to justify a second upgrade so soon after the previous one.

The facts contained in the record are inadequate, therefore, to sustain the Association's job content arguments.

Athletic Conference Comparisons

The District contends that comparisons across the lakeland athletic conference are not valid for reasons of diversity of job activities across the different school districts. Having made this argument, the District shoulders the burden of support for the premise. Beyond allegations, it offers no proof; i.e., job descriptions, testimony or documentation. Hence, absent a showing to do otherwise, the arbitrator accepts as appropriate an effort to shed light on the dispute by means of comparative data.

TABLE I

LAKELAND CONFERENCE - SALARY COMPARISONS

SCHOOL DISTRICT	1991-92		1992-93	
	SECRETARY	CUSTODIAN	SECRETARY	CUSTODIAN
BRUCE	\$ 9.09	\$ 8.54	\$ 9.45	\$ 8.88
FLAMBEAU	\$ 8.55	\$ 9.18	\$ 8.88	\$ 9.51
LAKE HOLCOMBE	\$ 5.94	\$ 7.36	\$ 6.44	\$ 7.65
MINONG	\$ 8.91	\$ 7.37	\$ 9.36	\$ 7.74
NEW AUBURN	\$ 7.38	\$ 6.09	\$ 7.71	\$ 6.36
SHELL LAKE	\$ 8.36	\$ 8.33	\$ 8.69	\$ 8.66
SIREN	\$ 7.69	\$ 9.62	\$ 8.04	\$10.05
WEYERHAEUSER	\$ 6.65	\$ 6.36	\$ 7.05	\$ 6.74
WINTER	\$ 7.60	\$ 7.83	\$ 8.00	\$ 8.14
AVERAGE	\$ 7.80	\$ 7.85	\$ 8.18	\$ 8.19
BIRCHWOOD	\$ 7.28	\$ 7.54		
UNION OFFER			\$ 7.85	\$ 8.07
DISTRICT OFFER			\$ 7.59	\$ 7.86

Source: Association Exhibits 11-25.

It should be noted at the outset that the data have been modified in several respects. First, Cameron School District was unsettled for 1992-93 and therefore was excluded from both years of comparison. Second, Flambeau, Minong and Winter have a range of rates for one or both positions. These have been converted into a single number rather than using the more cumbersome high and low figures employed by the Association. Third, only the custodial salary for Birchwood has been used.

Using the data compiled in the table we can calculate the 1992-93 salary increases over 1991-92 as follows:

TABLE II

	<u>Secretary</u>	<u>Custodian</u>
Conference Average	4.87%	4.33%
Association Offer	7.83%	7.03%
District Offer	4.26%	4.24%

By absolute dollar measures the parties' offers also show significant differences. For example, in 1991-92, the conference average was \$7.80 for secretaries and \$7.85 for custodial positions. The District's two positions were \$.52 and \$.31 respectively below the conference average. The District's final offer for 1992-93 would leave that gap largely unchanged. The Association's final offer, on the other hand, would narrow the difference to \$.33 and \$.12 respectively.

In short, the Association is essentially mounting a catch-up case for its secretary and custodial positions. The catch-up arguably is based in changes in the activities and responsibilities of the two positions. The arbitrator, however, has rejected the

upgrade rationale and, having done so, sees no reason to disturb the comparative status quo. The burden traditionally rests on the party requesting a change from that which it previously found acceptable.

The case for a job content change, thus, remains to be made. It is in the interest of union, employer and worker that jobs be paid their worth. Whatever temporary cost advantage an employer derives from under paying an employee soon gets dissipated from low morale, poor productivity and other negative behavioral consequences of perceived inequitable treatment. A reasonable solution would be to jointly conduct an analysis of the two positions using an accepted job evaluation procedure. Both parties' would then have a common, fact-based point from which to determine what the two positions are worth.

AWARD

In light of the above discussion and after careful consideration of the statutory criteria enumerated in Section 111.70 (4)(cm)7 Wis. Stat. the undersigned concludes that the District's final offer is more reasonable. Therefore, the final offer of the District shall be incorporated into the Collective Bargaining Agreement for the period beginning July 1, 1992 and extending through June 30, 1993.

Dated at Middleton, Wisconsin this 9th day of June, 1993.


Richard Ulric Miller, Arbitrator