IN THE MATTER OF THE INTEREST ARBITRATION BETWEEN

International Association of
Firefighters, Local 2386
(IAFF) AFL-CIO-CIC

UNION

-and-

Case 35 No. 58247 MIA 2286
Decision No. 29789-A

Town of Beloit, Wisconsin

EMPLOYER

ARBITRATOR: Christine D. Ver Ploeg

DATE OF TELEPHONE CONFERENCE: March 15, 2001

DATE OF RECEIPT OF POST-HEARING BRIEFS: April 8, 2001

DATE OF AWARD: May 14, 2001

ADVOCATES

For the Union
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INTRODUCTION

This interest arbitration has been brought by International Association of Firefighters, Local 2386 (hereinafter "Union") pursuant to Wisconsin's Municipal Employment Relations Act (Sec. 111.77). The Union represents the firefighters employed by Town of Beloit, Wisconsin, Fire Department (hereinafter "Employer").

Pursuant to the Wisconsin Employment Relations Commission's finding that the parties' negotiations had reached impasse, this matter was certified for final and binding arbitration and the below signed arbitrator was selected to "select the final offer of one of the parties and issue an award incorporating that offer without modification." Sec. 111.7(4)(b).

The parties and the arbitrator conferred by telephone conference call on March 14, 2001, and, upon mutual agreement, the parties submitted their respective cases via written briefs which were extensively documented by exhibit books and supplemental exhibits. In addition, on April 2, 2001, the Employer requested the opportunity to correct an "ambiguity" in its final offer. On April 6 the Union opposed that correction, arguing that Sec. 111.77(4)(b) requires its written agreement to any amendment , and it declined to so agree.

BACKGROUND

The Town of Beloit, comprised of some 7,000 residents, provides the following public services: Fire/Ambulance, Police, Roads, Parks and waste treatment. This Union represents the 8 full-time employees in the Fire Department (3 Fire Fighters, 3 Lieutenants and 2 Captains), while the Teamsters represent 13 persons employed in the other departments.

The issues that these parties have brought to interest arbitration are largely economic. Interest arbitrators who decide such matters do not apply a strict formula but instead consider the evidence as a whole. Two important bases for decision are: (1) determining what the parties would likely have negotiated had they been able to reach agreement at the bargaining table; and

(2) seeking to avoid awards that significantly alter a bargaining unit's relative standing, whether internally or externally, unless there are compelling reasons to do so.

Three types of evidence relevant to those two rationales are frequently presented in interest arbitration: evidence of "internal comparability", evidence of "external comparability" and, when cost items are at issue, evidence of an employer's "ability to pay" (an argument not raised in this case).

Parties present evidence of "internal comparability"--evidence of the terms and conditions of employment an employer provides its various employee groups--to demonstrate that the bargaining unit now in interest arbitration is or is not being treated equitably in comparison. Internal comparisons have not been the primary focus of argument in this case.

By contrast, the parties here have greatly disagreed concerning the appropriate "external comparability" evidence. That evidence compares the terms and conditions of employment for employees who perform same or similar work for different but "comparable" employers, and is offered to demonstrate that the bargaining unit in interest arbitration is or is not being treated appropriately.

Parties often strenuously disagree concerning the composition of the appropriate comparability group, and this case is no exception. In fact, identifying appropriate external comparables is more challenging in this case because Wisconsin has relatively few fire departments that employ full-time firefighters; most rely on volunteers.

For this reason the Town of Beloit has proposed comparisons that emphasize size and region: six similarly sized communities in the southern half of Wisconsin.

West Bend
Grand Chute
Portage
Watertown
Beaver Dam
Mount Pleasant

The Union, on the other hand, has selected two external comparisons that place the greatest emphasis on distance from the Town of Beloit, average adjusted gross income, the comparability of other organized employees, and demographic data. Those comparisons are the cities of Janesville and Beloit.

I have considered the above evidence and find that the Employer's comparisons are the most appropriate. The cities of Beloit and Janesville are respectively five times and nine times the size of the Town of Beloit. They employ public workforces ten to fifteen times larger than the town. Proposed comparables with disparities of this type and magnitude have traditionally been found to be unhelpful in interest arbitration.

By contrast, the Employer's proposed comparisons based on size and regional similarity are well accepted in interest arbitration. In addition, it is noteworthy that these comparisons all have larger populations and assessed valuations than the Town of Beloit.

Moreover, it is relevant that towns the size of the Town of Beloit typically do not have organized full time fire fighters. This factor also renders comparison with the much larger cities of Janesville and Beloit unsuitable, as does the fact that the fire departments in those cities also provide emergency medical services, with those firefighters certified at the EMT-P (paramedic) level, which is a higher certification than the EMT-1 (intermediate) level used by the Town of Beloit.

ISSUES AT IMPASSE

1. WAGE ISSUES

EMPLOYER POSITION:

Effective 1/1/1999 increase 1998 rates by 3% across the board
Effective 1/1/2000 increase 1999 rates by 8% across the board
Effective 1/1/2000 delete language in Article XV, Section 4 (EMT-B incentive pay) and replace with:

> "Any employee who does not maintain an EMT-1 certification will have his salary as reflected in Section 1 of the Article reduced by $750.00."

Changes to take effect upon ratification or an award of an arbitrator, whichever comes first.

UNION POSITION:

Effective 1/1/1999 increase rates by 3 1/l2% across the board
Incorporate EMT-B 3% incentive pay in Article XV, Section 4, into base rate.
Effective 6/1/1999, Article XV, Section 4, shall read:

> "Section 4 - EMT - Intermediate Incentive Pay:
> Bargaining unit employees who have successfully completed the EMT Intermediate qualifications as defined by the State of Wisconsin certification shall receive five percent (5%) of their monthly base pay per month, while currently certified. Employees shall not be required to maintain National Registry certification or re-certification to remain eligible for the above incentive pay."

Effective 1/1/2000, increase rates by 3-1/2% across the board.
Effective 1/1/2001 increase rates by $.25 per hour for all classifications.
Effective 1/1/2001 increase rates by 3-1/2 % after $.25 per hour is added to base rates.

Discussion and Award

The wage issue first raises the question whether adopting the Employer's final offer would result in no wage increase for 2000. The Union argues that the Employer's offer fails to provide retroactivity by virtue of the statement that the proposed wage changes are to "take effect upon ratification or an award of an arbitrator, whichever comes first." I have considered this argument but find it is not supported when the Employer's proposal is read in its entirety. The Employer's final offer explicitly provides that the year 2000 wage adjustments are "effective January 1, 2000." The term "take effect" is more reasonably construed to mean that wage adjustments (retroactive and prospective) are to be implemented when the contract is ratified by the membership or settled by an arbitrator's award.

The Town of Beloit has proposed a two-year package which includes a 3% increase the first year. The second year increase of 8% includes the EMT certification add-on[1]. By contrast, the Union seeks a 3.5% increase for each year of its proposed three year contract, as well as a compounded certification add-on, plus a "catch up" increase for 2001.

The comparative evidence more strongly supports the Employer's position. With respect to the *external comparables*, the reasons why the Employer's comparison group has been selected as the most appropriate have already been discussed. The evidence demonstrates that the Employer's final offer will maintain competitive wage rates within that comparison group. Moreover, even using the Union's comparison group, it is noteworthy that the Employer's final offer best reflects the annual wage increase trend in the cities of Janesville and Beloit . (Comparing their total compensation is more problematic due to the many differences in their respective compensation systems).

With respect to *internal comparisons*, the most persuasive evidence is that which demonstrates that the wage increase trend among the Town of Beloit employee groups from 1995 through 2001 has remained essentially uniform. This uniformity in the percentage increase in annual wages suggests that employees and the Employer have followed common bargaining patterns and that the relative value of services has remained constant. The Employer's final wage offer for these employees largely maintains this trend, while recognizing the fire fighters' upgraded EMT certification from Basic to Intermediate.

Moreover, despite the Union's assertion that the firefighters are the "lowest paid employees in the township," the evidence suggests that when employees are compared on their

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[1] With respect to the incentive pay proposals: in 1999 all employees participated in and successfully completed Employer sponsored training to advance from the basic Emergency Medical certification (EMT-B) to EMT-1 (intermediate). The existing agreement provides for 3% incentive pay for the basic certification, and in 1999 the parties agreed to negotiate a separate wage for the intermediate certification. That separate wage is addressed in their above proposals.

total earnings, rather than their per hour earnings, the firefighters might well be the highest paid township employees. [2]

Because Wisconsin law requires that the arbitrator shall select the final offer of one of the parties, and shall issue an award incorporating that offer without modification, and because the Employer's total final offer package has been found to most closely resemble what the parties themselves would have negotiated, it is adopted.

2. HEALTH INSURANCE

EMPLOYER POSITION:

> Effective upon the arbitrator's award, modify Article XV, Section 14, to read:
>
> "Section 14 - Health Insurance. During the term of this Agreement, the Town will provide the full premium cost of the group health plan currently being provided through Mercy Care."
>
> Delete existing Article XV, Section 14 and the parties' 9/8/1997 Letter of Understanding regarding health insurance.

UNION POSITION:

> Existing language.

Discussion and Award

In 1997 these parties agreed to change from the Trustmark health plan to the Mercy Care health plan. At that time they also signed a Letter of Understanding whereby if the new Mercy plan's benefit levels were lower than the former Trustmark's benefits, the Employer would accept all responsibility for those added costs.

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[2]I agree that annual earnings provide a more realistic comparison among employees. The firefighters' 56 hour "workweek" in fact represents a 9 hour workday which include 1-1/2 hours for lunch. The balance of that time is standby. Moreover, the Union's wage comparisons fail to acknowledge that this is the only bargaining unit with both add-ons for skill certification and a generous educational incentive.

Although the parties disagree concerning the amount of the added costs the Employer has been forced to absorb because of this 1997 agreement, it is undeniable that it has added considerable value to the employees' health care benefits. At the same time, this agreement has significantly increased the Employer's costs. The evidence demonstrates that the Employer's health care costs are among the highest, if not the highest, in the state.

The Employer seeks to rescind this agreement and limit its costs to those it pays for all of its other employee groups: i.e., payment of the "full premium cost of the group health plan currently being provided through Mercy Care." The parties' existing contract requires that employees with single coverage must pay $150.00 per year and employees with family coverage must pay $300.00 per year toward their premium costs. Under the Employer's final offer, employees would no longer be required to participate in that premium cost. However, the Employer would no longer cover costs incurred by the 1997 change in health plans.

The Employer seeks this change not only for financial reasons, but also because the lapse of time and the fact that the 1996 Trustmark plan no longer exists have made it very difficult to determine what services the previous plan would have covered that are not covered by the existing plan.

Arbitrators are loathe to relieve parties of their voluntary agreements, and this case has been no exception. Nevertheless, it is apparent that the parties have struggled with this issue for several years, and unless resolved this issue will probably continue to contribute to impasse in future negotiations. The Employer's proposal to delete these employees' premium contributions and accord them the same benefits as all other employees--presented as part of a larger reasonable total package which the arbitrator cannot modify--is adopted.

In adopting the Employer's final offer, I construe the health insurance provision to be prospective. Unlike the provisions concerning wage adjustments (discussed above), the Employer's health insurance proposal contains no specific effective date. Thus, per the Employer's final offer, "This provision will be effective upon ... award of an arbitrator."

3. CONTRACT DURATION

EMPLOYER POSITION:

January 1, 1999 through December 31, 2000

UNION POSITION:

January 1, 1999 through December 31, 2001

Discussion and Decision

Although the parties have usually negotiated two-year contracts throughout their long-standing relationship, given the delay in bringing these matters to arbitration it would make more sense to make this the third year of a three year contract.

Nevertheless, given the statutory mandate to select one parties' final package offer, and given the above findings that the Employer's final offer best reflects what the parties could have been expected to negotiate absent impasse, the Employer's proposal for a two year contract must be adopted.

AWARD

The Employer's final offer is adopted.

May 14, 2001

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Christine D. Ver Ploeg