
In Re the Interest Arbitration between:

**WERC Case No 130
No. 61277 MIA-2467
Decision No. 30553-A**

Door County, Wisconsin,

Employer,

and

**Interest Arbitration
Opinion and Award**

Door County Deputy Sheriff's Association,

Union.

By order dated February 11, 2003 the Wisconsin Employment Relations Commission determined that an impasse, within the meaning of Section 111.77 (3) of the Municipal Employment Relations Act exists between the Union and Employer with respect to negotiations leading toward a new collective bargaining agreement covering wages, hours and conditions of employment for law enforcement personnel employed by said Employer.

The Wisconsin Employment Relations Commission certified that the conditions precedent to the initiation of compulsory final and binding arbitration, as required by Section 111.77 of the Municipal Employment Relations Act, with respect to negotiations between the Union and the Employer on issues of wages, hours and conditions of employment of law enforcement personnel employed by said Employer have been met.

James A. Lundberg was selected from a panel of arbitrators provided to the parties by the Wisconsin Employment Relations Commission and was appointed to issue a final and binding award in the matter pursuant to Section 111.77 (4) (b) of the Municipal Employment Relations Act.

A hearing was conducted on July 11, 2003. Briefs were posted on July 25, 2003 and a reply brief was posted by the employer on August 21, 2003.

APPEARANCES:

FOR THE EMPLOYER

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FOR THE UNION

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ISSUES:

The Arbitrator is required to decide which of the final offers of the parties, in total, is the more reasonable offer and should be adopted pursuant to Wis. Stat. Section 111.77 (4) (b). The issues in dispute are wages for the years 2002, 2003 and 2004 and wages, hours and conditions of employment of Part-time Tele-communicator Position.

A. Wages

1. Employer

a. 2002

- Across –the board increase
 - 3.25%
- Equity Adjustments
 - First Pay Period add \$.17 to top step of Pay Grade F
 - First Pay Period add \$.21 to top step of Pay Grade H
 - Thirteenth Pay Period add \$.38 to top step of Pay Grade F

- Thirteenth Pay Period add \$.37 to top step of Pay Grade E
- Thirteenth Pay Period add \$.29 to top step of Pay Grade H.

b. 2003

- Across – the – board increase
 - 3.25%
- Equity Adjustments
 - Thirteenth Pay Period add \$.26 to top step of Pay Grade F
 - Thirteenth Pay Period add \$.31 to top step of Pay Grade E
 - Thirteenth Pay Period add \$.27 to top step of Pay Grade H

c. 2004

- Across – the – board increase
 - 3.25%

2. Association

a. 2002

(1) Equity Adjustments

- January 1, 2002 adjustment in classification F of \$.32 and adjust remaining classifications so they remain at same percentages in previous contract.

- $D = F + 16.05\%$
- $E = F + 6.25\%$
- $G = F - 25.2\%$
- $H = F - 26.05\%$

(2) Across – the – board increases

- First Pay Period 3.0%
- Thirteenth Pay Period 2.0%

b. 2003

(1) Across – the – board increases

- First Pay Period 3.0%
- Thirteenth Pay Period 2.0%

c. 2004

(1) Across – the – board increases

- First Pay Period 3.25%

B. Part – Time Tele-communicator Position

1. Employer

a. Hours & Days

- (1) 11:00 a.m. – 7:00 p.m.
- (2) Two (2) days of work followed by five (5) days off, then three (3) days of work followed by five (5) days off, and repeat.

b. Wages & Conditions of Employment

(1) Identical to full time Tele-communicator position.

2. Association

a. No proposal

ASSOCIATION’S ARGUMENT:

The Door County Deputy Sheriff’s Association, hereafter “DCDSA”, argues that the wage proposal it has submitted to arbitration is more reasonable in light of wage comparisons and the historical position of DCDSA wages within the comparison group. The DCDSA wage proposal maintains the same wage relationship within the bargaining unit and maintains the wage rank of all DCDSA classifications with comparable counties.

The DCDSA argues that the comparison group should include the counties of Calumet, Outagamie and Winnebago. All three counties are located in northeast Wisconsin and have similar costs of living. The proposed comparison group is also similar in size and population. The DCDSA agrees that Marinette County, used in the employer’s comparisons, is also a comparable county.

Both the employer and the DCDSA use Brown, Manitowoc and Kewaunee counties for comparison. Within the comparison group DCDSA argues that Door County bargaining unit wages have always fallen behind Brown and Manitowoc but ahead of Kewaunee. The DCDSA argues that the employer’s wage proposal would upset the normal ranking by causing Door sheriff’s deputies wages to fall behind Kewaunee County wages and the gap between Door County Sheriff’s Deputies wages and those of Brown and Manitowoc to become greater. The greatest impact would be upon the classifications of sergeant and investigator.

The DCDSA argues that Oconto County is not comparable to Door County because the largest city in Oconto County is only one half the size of Sturgeon Bay. Furthermore, Oconto County is more rural and does not have a tourist based economy.

The argument for preserving the wage ranking of Door County Deputies within the comparison group and particularly the relative ranking with Kewaunee County focuses on the tourist base of the Door County economy. During the seven month tourist season (May through November), the population of Door County increases dramatically. The population increase results in three times the number of calls to police dispatch. While the crime rate using the number of arrests does not increase as dramatically as the number of calls to dispatch, the work load of Sheriff's Deputies during the tourist season is much heavier than the work load experienced by deputies in Kewaunee County. Given the higher number of calls that Door County Deputies must make during the tourist season, it would be unfair to allow wages of Door County Deputies to fall behind those of deputies in Kewaunee County, which does not have the same tourist based economy.

The duties and responsibilities of Sheriff's Deputies compare most closely to those of employees who work for the Emergency Services division. Since Emergency Services received 3.5% increases in the years 2000, 2001, and 2002, the 3.25% increases proposed by the employer are too low.

The equity adjustments proposed by the employer have never been justified. It is the position of the DCDSA that the equity adjustments proposed by the employer treat members of the same bargaining unit differently and specifically do not include sergeants whose work duties have either remained the same or increased due to assignment of some new responsibilities.

The DCDSA proposal treats all bargaining unit employees fairly and maintains internal and external comparability. Thus, the DCDSA wage proposal is more reasonable than the employer's wage proposal.

The DCDSA objects to the addition of a part-time Tele-communicator position. The County wants to add the proposed contract language without giving anything in return. There is no quid pro quo for the addition of a part-time Tele-communicator.

The employer's position is not limited to adding one part-time Tele-communicator position. Thus, the County could add other types of part-time positions. The addition of other part-time positions could erode the pay and benefits of all members of the bargaining unit.

The employer's proposal limits the availability of over time pay for part-time Tele-communicators to those instances when they work more than 40 hours in one week. The contract language will allow the employer to call the part-time Tele-communicator into work on his or her day off but not pay overtime.

The proposal is also unfair because the calculation of hours needed to receive benefits or pro-rated benefits found in the contract makes it very difficult for a part-time Tele-communicator to receive benefits.

The DCDSA wage proposal is more reasonable than the wage proposal made by the employer and the Tele-communicator proposal of the employer is unfair. Thus, the arbitrator should award the DCDSA proposal.

EMPLOYER'S ARGUMENT:

Citing Wisconsin Statutes Section 111.77 (6) (a) and (b), the County affirms that it has the lawful authority to implement either made at the arbitration hearing. However,

the fact does not tend to prove or disprove any issue in controversy. The stipulations entered into by the parties are self explanatory and require no interpretation or clarification. The existing collective bargaining agreement, to the extent its provision do not conflict with the final offers or stipulations of the parties, may be viewed as part of the voluntary agreement between the parties. Thus, the two criteria found at Wisconsin Statutes Section 111.77 (6) (a) and (b) are of little relevance to the issues in dispute. The other criteria found at Wisconsin Statutes Section 111.77 (6) (c) , (d), (e), (f), (g) and (h) should all be considered by the arbitrator in this arbitration.

The provision of appropriate services while minimizing the financial burden on taxpayers is a significant factor to consider. There is considerable uncertainty with regard to Wisconsin's biennial budget and proposed property tax levy limitations. Neither proposal would impact the provision of appropriate services but the employer's proposal will have a less adverse fiscal impact upon County tax payers than the Association's final offer. The County Finance Director testified that the County could face a budget shortfall in 2004 of 1.4 million dollars. Thus, the County proposal is more in line with the interests and welfare of the public and the financial ability of the employer to meet the costs.

Internal comparisons favor the employer's position. Arbitrators have deemed internal comparables to be most relevant in interest arbitration. The wage pattern set between the employer and four other bargaining units has been 3.25%. All of the wage increases except the 2002 increase for Emergency Services of 3.5% were arrived at by voluntary settlement.

The non-organized sector of the work force will receive a 3.25% increase in 2002, a 2.85 % increase in 2003 and a tentative increase of 2.85% in 2004. There is no

significant disparity between the increases given organized and non organized employees.

The employer's proposal is internally consistent, while the Association's proposal deviates from the internal pattern of wage settlements.

The parties disagree over what counties comprise the group of the externally comparable counties to use in this arbitration. In Door County (Sheriff's Department) Decision No. 7Aa (1988), Arbitrator Gunderman ruled that Kewaunee, Langlade, Marinette, Oconto, Shawano and Waupaca should be considered comparable and rejected the use of Brown and Outagamie as comparable counties.

The County relies on the settlement patterns in the established list of comparable counties and relies primarily upon Kewaunee, Marinette and Oconto counties for comparisons. Brown and Manitowoc counties are submitted as secondary comparisons.

The employer challenges the Association's selection of comparable counties because no basis for departing from the historical comparison group was given. Furthermore, no testimony or exhibits in support of the Association comparison group was submitted. Calumet, Outagamie and Winnebago counties have never been used for comparison.

The targeted equity wage adjustments proposed by the employer along with the 3.25% across the board wage increases for 2002, 2003 and 2004 will move wages for Door County Deputies more in line with wages of deputies working in the comparison counties. The increases proposed by the Association are much greater than increases obtained in comparable counties.

The employer argues that there is substantial parity between Door County Deputies and Kewaunee County Deputies. At various times wages in Kewaunee County has moved slightly ahead of Door County and at other times Door County wages have moved ahead. As a result of the 2001 wage settlement, Door County slipped slightly behind Kewaunee. The current wage relationship does not support a “catch up” argument.

Crime rates in Door County are substantially below state averages, significantly less than Brown County and about the same as or lower than Kewaunee, Oconto and Shawano counties. The crime rate statistics suggest that the duties and responsibilities of Sheriff’s Deputies in Door, Kewaunee, Oconto and Shawano counties are similar.

The employer contends that the County wage proposal is supported by the appropriate external wage comparisons.

Using the consumer price index as a gauge of cost of living, the employer’s wage proposal is slightly more in line with the current cost of living rate of increase.

The overall compensation received bargaining unit members exceeds that of the average worker in and outside of Door County. The bargaining unit has not had to endure layoffs, static wages, and reductions of benefits that have plagued many sectors of the economy.

During the pendency of this arbitration economic conditions within the County have worsened. Two of Door Counties top ten employers have closed their doors resulting in the loss of 236 jobs at Emerson and the loss of 199 jobs at Palmer Johnson. The poor economic outlook for Door County supports the employer’s wage position.

Other factors that should be considered in support of the employer’s position are as follows:

Wisconsin's property tax burden is already the 11th highest among all states.

The political environment reflects the public's desire for cost containment and tax relief.

While Association members enjoy an excellent health insurance program and prescription drug coverage at a nominal cost, the cost of health care and prescription drugs nationally is rapidly escalating.

The employer has found it necessary to add a part-time Tele-communicator position to fill a scheduling gap. The proposed wages and conditions of employment for the part-time Tele-communicator have been structured to mirror that of the full time Tele-communicators. Thus, the proposed hours of employment are appropriate for the new position. The employer's proposal is equitable and reasonable and the Association submitted no proposal.

The Association's argument that a part-time Tele-communicator can not perform the work of a Tele-communicator was rebutted by the testimony of the Tele-communicator's supervisor.

The employer argues that the proposal it has submitted should be adopted based upon the criteria found at Wisconsin Stat. Section 111.77 (6) (a) through (h).

OPINION:

The parties represent that the cost of either proposal falls within existing laws that place limitations upon expenditures that may be made by the employer and either proposal can be funded by revenues collected under current laws.

Using the criteria set forth at Wisconsin Statutes Section 111.77 (6) (a) through (h), the proposal submitted by the employer should be adopted.

The current weakness in the Door County economy and the internal consistency between the employer's wage proposal and other Door County bargaining units weigh heavily in support of the County position.

The arbitration award of Arbitrator Gunderman in Door County (Sheriff's Department) Decision no. 25570-A (1988) established a group of counties that reasonably compare with Door County. The union submitted insufficient evidence to support a departure from the established external comparison group. The employer's wage proposal will result in Door County Deputies maintaining their relative wage rank within the external comparison group. The prevailing wage increase within the comparison group is 3.0% across the board for the years 2002 and 2003. The targeted wage adjustments proposed by the employer are intended to move wages that have lagged for some Door County officers into line with wages within the external comparison group.

While both wage proposals are greater than the current increase in cost of living as measured by the consumer price index, the employer's proposal is closer to the current cost of living rate of increase.

The overall compensation of Door County Deputies is higher than average earnings within Door County.

During the pendency of this arbitration economic conditions within Door County have remained weak. Though the wage proposals of the parties are close, the lower cost proposal made by the employer is more appropriate in light of the weak local economy.

The turnover of police officers within Door County was cited in support of the Association's wage proposal. However, turnover does not appear to be a significant problem at this time for the Door County Sheriff's Department.

The arbitrator has only one proposal to consider with respect to the part-time Tele-communicator position. The wages, terms and conditions of employment proposed by the County are consistent with other employees who work as Tele-communicators for the Door County Sheriff's Department. The proposed schedule for part-time Tele-communicator fills an existing gap in the schedule.

The proposal submitted by the employer should be adopted.

AWARD:

Based upon the statutory criteria found at Wisconsin Statutes Section 111.77 (6), and for the reasons discussed above, the Arbitrator selects the final offer of the employer, Door County, which together with the stipulations of the parties shall be included in the collective bargaining agreement between Door County and the Door County Deputy Sheriff's Association for the years 2002, 2003 and 2004.

Dated: September 5, 2003

James A. Lundberg, Arbitrator