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 In the Matter of the Petition of
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 GENERAL DRIVERS, DAIRY EMPLOYEES,
 *
 WAREHOUSEMEN, HELPERS & INSIDE
 *
 EMPLOYEES LOCAL UNION NO. 346
 *
 To Initiate Final and Binding Arbitration
 *
 Involving Certain Law Enforcement Personnel
 *
 In the Employ of
 *
 *
 DOUGLAS COUNTY
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Case XLII
 No. 17748 MIA-95
 Decision No. 12702-A
 Arbitration Award

Introduction

The General Drivers, Dairy Employees, Warehousemen, Helpers & Inside Employees Local Union No. 346 (hereinafter Union) and Douglas County (hereinafter County) reached an impasse in their bargaining on the terms of a collective bargaining agreement. The Union petitioned the Wisconsin Employment Relations Commission for arbitration of the dispute pursuant to Wis. Stat. Sec. 111.77. The WERC certified that an impasse had been reached, ordered arbitration and appointed Arlen Christenson of Madison, Wisconsin arbitrator to render a final and binding decision by choosing one or the other of the last offers of the parties as required by Wis. Stat. Sec. 111.77. A hearing was held in Superior, Wisconsin on July 11, 1974. Briefs were mailed by July 19, 1974 although the last brief did not reach the arbitrator until July 24. Both parties were given full opportunity to present oral and written evidence and testimony.

There are two bargaining units involved in this proceeding and, therefore, two sets of final offers. The arbitrator may choose either final offer in either unit. The units are the Douglas County Deputy Sheriffs (Deputies) and the Douglas County Jailers (Jailers). The final offers of the parties are:

Deputies

County: FINAL OFFER POSITION OF DOUGLAS COUNTY FOR SHERIFF'S DEPUTIES BARGAINING UNIT

It has been previously agreed and jointly stipulated by General Drivers, Dairy Employees, Warehousemen, Helpers & Inside Employees Local Union No. 346 and Douglas County that all issues involved in the stipulation shall not become a part of this arbitration. The sole remaining issue is that of wages to which Douglas County wishes to amend its position of May 8, 1974, to that hereinafter noted.

WAGES: Increase all classifications not covered in the joint stipulation Twenty-Five Dollars (\$25.00) per month effective January 1, 1974 and Thirty Dollars (\$30.00) per month effective July 1, 1974. Effective January 1, 1975 a wage increase of Twenty-Five Dollars (\$25.00) per month and July 1, 1975, Thirty Dollars (\$30.00) per month.

Duration of the agreement from January 1, 1974 to December 31, 1975.

Union:

The Union provides their amended position as listed below:

Wages

Effective 1/1/74	\$35.00	Across the Board.
7/1/74	\$35.00	Across the Board.

Creditable Educational program to be worked out by a bipartisan committee subject to mediation if agreement is not reached.

Contractual language to provide continued employment over & beyond the early retirement program outlined by the state.

Jailers

County:

FINAL OFFER POSITION OF DOUGLAS COUNTY
FOR JAILERS BARGAINING UNIT

It has been previously agreed and jointly stipulated by General Drivers, Dairy Employees, Warehousemen, Helpers & Inside Employees Local Union No. 346 and Douglas County that all issues involved in the stipulation shall not become a part of this arbitration. The sole remaining issue is that of wages to which Douglas County wishes to amend its position of May 8, 1974 to that hereinafter noted.

WAGES: Increase all classifications not covered in the joint stipulation Twenty-Five Dollars (\$25.00) per month effective January 1, 1974 and Twenty-Two Dollars (\$22.00) per month effective July 1, 1974. Effective January 1, 1975, a wage increase of Twenty-Five Dollars (\$25.00) per month and July 1, 1975, Twenty-Five Dollars (\$25.00) per month.

Duration of the agreement from January 1, 1974 to December 31, 1975.

Union:

The Union provides their Amended position as listed below:

Wages

Effective	1/1/74	\$35.00	Across the Board
	1/1/74	\$ 8.25	Adjustment across the Board
	7/1/74	\$35.00	Across the Board
	7/1/74	\$ 8.25	Adjustment across the Board

I will first discuss the issues related to the Deputy Sheriff's bargaining unit and then treat the matter of the Jailers.

Discussion

The criteria to be applied by the arbitrator in a proceeding under Wis. Stat. Sec. 111.77 as prescribed in Sec. 111.77(6). That section reads as follows:

(6) In reaching a decision the arbitrator shall give weight to the following factors:

- (a) The lawful authority of the 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 these cost.
- (d) Comparison of the wages, hours and conditions of employment of the employes involved in the arbitration proceeding with the wages, hours and with other employes generally:
 1. In public employment in comparable communities.
 2. In private employment in comparable communities.

- (e) The average consumer prices for goods and services, commonly known as the cost of living.
- (f) The overall compensation presently received by the 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.
- (g) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.
- (h) 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.

The parties, in their evidence and argument, have stressed three of these criteria: 1) The interest and welfare of the public and the financial ability of the Government unit; 2) wages and other conditions of employment in comparable public and private employment; and 3) the cost of living. It is appropriate to examine each of these criteria individually.

Cost of Living

The Union contends that the increase in the cost of living over the last two years is reason enough for the arbitrator to select the Union's final offer. According to the Department of Labor's Consumer Price Index the cost of living nationally increased by 10.7% during calendar year 1973. The annual rate for the first 5 months of 1974 is 12.3%.

Under the Union's wage proposal, the Deputies (the largest classification in the unit) would be receiving a 10% increase by the end of the calendar year. Because the \$70 increase would come in two equal steps effective January 1 and July 1 the increase in income for 1974 over 1973 would be approximately 7.5%. The Union's proposal would, therefore, provide a wage increase something less than the increase in the cost of living.

The County contends that the nation wide cost of living figures may not be relevant to Douglas County because costs may be lower there than in more urbanized areas. There is no evidence on this point, however, and, moreover, this issue is not whether the cost of living is similar but whether the increase in the cost of living is similar. The Bureau of Labor Statistics does not provide separate figures for Douglas County and none are in the record. In view of the legislative directive in Sec. 111.77(6) that cost of living must be taken into account we must rely on the best evidence available. That best evidence supports the view that the increase in the cost of living exceeds the Union's proposed increase. If cost of living were the only criteria I would have no choice but to select the Union's offer. There are other criteria, however, which must be examined.

Comparable Wages

Both parties have selected allegedly comparable employment to support their respective positions. The Union seeks to compare with the City of Superior Police Department, the St. Louis County (Duluth) Minnesota Sheriff's Department, and other Police and Sheriff departments in the Duluth area. The County cites the Sheriff departments in eleven neighboring Wisconsin counties. Needless to say the Union's sample supports the proposition that Douglas County Deputies are lower paid than their counterparts elsewhere and the County's sample supports the opposite conclusion. Both parties contest the comparability of the employing units selected by the others.

Whether or not employment is comparable is necessarily a question of degree. No two jobs and no two communities are exactly alike. For our purposes the question is whether or not a particular bargaining or employing unit is comparable enough to be useful in determining the appropriate level of compensation.

The County contends that the Minnesota comparison used by the Union should be disregarded because taconite tax relief and a larger industrial tax base make it easier for the taxpayer to bear the cost burden. Moreover, St. Louis County is much more populous and urbanized than Douglas County with a population of 240,000 compared with 44,000.

The Union, on the other hand, argues that the County's use of smaller Wisconsin Counties as comparable is not appropriate. Because none of these counties contain a city the size of Superior, the Union argues, they are not comparable. Precisely why this should be the case is not spelled out but it presumably has to do with the different nature of law enforcement problems, different tax resources and a different bargaining tradition.

Taking into account the strengths and weaknesses of the respective comparisons used by the parties it is a fair conclusion that the wages of Douglas County Deputies were not high by comparison with other communities and, if anything, were on the low side in 1973. Unfortunately the record is short of hard data regarding wage rates that have been established for calendar years 1974 and 1975 which are at issue in this proceeding. The only 1974 data produced relates to the St. Louis County Sheriff's department and the Superior City Police Department. The Union's final offer would place the Deputies \$2 a month below a city patrolman and \$23 below a squadman, both positions arguably comparable to that of Deputy. This would be a relative gain for the Deputies because the Superior police apparently received a \$44 across the board increase for 1974. Douglas County Deputies, under the Union's final offer, would remain substantially below the St. Louis County pay scale. The difference, in fact, would be at least \$20 a month more than in 1973.

The only 1974 data is, therefore, inconclusive. The Superior data suggest that the Union's final offer is high and the St. Louis County data tends in the opposite direction. With the evidence of comparable wages inconclusive it would be difficult on the basis of this criterion alone to support the Union's final offer which, for most bargaining unit employees, would result in a percentage increase greater than that received by any bargaining unit of public employees in Douglas County for 1974. Comparability, however, is only one criterion and must be considered in conjunction with the other statutory criteria.

Interest and Welfare of the Public

The County argues that the interest and welfare of the public will be best served by adopting the County's final offer because it fits the pattern of settlement with other bargaining units with which the County must deal. All but one of the other units have settled for about a 7% annual wage increase and a two year contract. To deviate from this pattern, the County contends, would cause "resentment and unhappiness" among the other County employees.

A consistent pattern of settlement among the various County bargaining units is no doubt an appropriate bargaining goal. It does not follow, however, that it should be followed single mindedly. The County has deviated from the pattern in its settlement with the Highway Department employees for a 9% increase and a one year contract. The question is whether the settlement in this bargaining unit should also be different.

The County's offer is for an across the board increase of an equal amount in each year of a two year contract. The effect of this, of course, is that the employees will receive a smaller percentage increase in 1975 than in 1974. This aspect of the County's offer is very troublesome in a time of rising inflation rates. If the cost of living increase continues as it has, these employees will have seen a very substantial erosion of their real income by the end of 1975. And there is little reason to expect that inflation will subside. I find it exceedingly difficult to justify a two year contract with these terms at this time.

Jailers' Bargaining Unit

The Union's offer respecting the Jailers' unit calls for an increase equal to that of the Deputies and, in addition, an \$8.25 a month "adjustment" as of January 1, 1974 and again on July 1. This provides a 13.5% increase for the Jailers by the end of the calendar year. The Union argues that the additional increase is necessary to redress an existing inequity in the salary structure and that Jailers' wages should be within \$25 of that paid the Deputies.

The County's offer is for a \$25 a month increase effective January 1, 1974; \$22 effective July 1, 1974; another \$25 on January 1, 1975; and \$22 again on July 1, 1975. The total increase for the calendar year 1974 would be \$47 with an equal amount in 1975.

The effect of the County's offer is to increase the gap between the Jailers' wages and those paid the deputies. The Union's offer would decrease that gap. The testimony at the hearing suggested that there was general agreement that the gap should be closed but the County insisted on a concomitant reduction in the deputies wage demand.

On the whole I find the Union's offer with respect to the Jailers to be high and the County's low. In combination, however, I must conclude that the Union's one year proposals for both bargaining units must be preferred.

Conclusion

I have concluded that the Union's offer should be adopted for both bargaining units. In doing so I recognize that it is not an ideal solution to the problem. But even if I, as arbitrator, had the wisdom to devise the ideal settlement (which I disclaim) I am limited by law to a choice between the two offers before me. In making this choice I am persuaded particularly that for these parties at this time a one year agreement is to be preferred over a two year contract with an equal dollar increase for each year. I consider either offer to be tolerable for 1974 but I am not prepared to say that the 1975 results of the County's offer would be fair. Regardless of the appropriateness of such a settlement at an earlier date, from the prospective we now have the prospect of continued rampant inflation persuades me that the Union's one year offer is to be preferred.

The Union's final offer for the deputies bargaining unit also contains language regarding a "creditable Educational program" and continued employment beyond retirement age. The language in both regards is very general and leaves the obligations of the parties somewhat uncertain. The most logical interpretation of the language and the one I adopt for the purposes of this award, however, is that the parties are bound to bargain in good faith in an attempt to reach an agreement on these subjects. The award, on the basis of the language of the offer and the evidence in this proceeding, cannot go beyond that to mandate any specific contract language.

Award

It is my award that the Union's final offers be and the same hereby are adopted for the Deputy Sheriffs' bargaining unit and for the Jailers' bargaining unit.

Dated at Madison, Wisconsin, this 8th day of August, 1974.

Arlen Christenson /s/
Arlen Christenson