

STATE OF WISCONSIN
WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of

CITY OF WAUKESHA, WISCONSIN

Arbitration Proceedings

and

WAUKESHA ASSOCIATION OF FIRE
FIGHTERS, LOCAL 407

DISCUSSION & AWARD

Case XXIII
No. 18585
MIA-133
Decision No. 13303-A

On February 12, 1975 the Wisconsin Employment Relations Commission issued an order appointing the undersigned as a sole arbitrator to hear the matter and issue a final and binding award. A hearing was held and post-hearing briefs were exchanged.

Appearing for the International Association of Fire Fighters: Edward Durkin, Vice-President.

Appearing for the Employer: Michael, Best & Friedrich, by Marshall R. Berkoff and James W. Nellen II, counsel.

This arbitration proceeding was held pursuant to From 2, Section 111.77(4)(b), Wis. Stats. whereby the arbitrator is required to "select the final offer of one of the parties and shall issue an award incorporating that offer without modification." This proceeding is unusual in that the Union's final offer as amended in timely fashion prior to the hearing is confined to the wage or salary issue alone, evidently having decided that by dropping all fringe matters which were on the table at the time of impasse it would strengthen its position on the wage issue. On the other hand, the City's final offer deals not only with the wage issue but with the fringe issues as well. The Association final offer which was submitted to the arbitrator on April 21, 1975 reads as follows:

"Enclosed please find a copy of the Union's Final Offer. ... The terms and conditions of employment of the 1973-74 Agreement and those terms and items agreed upon during negotiations plus the Union's following position on wages.

"Article XX, Salaries, Section 20.01. Effective January 1, 1975 all employees shall receive monthly salaries as follows:

	<u>1975</u>	<u>1976</u>
Captains	\$ 1,250.00	\$ 1,355.00
Lieutenant	1,149.00	1,254.00
Firefighter:		
1st Yr.	888.00	993.00
2nd Yr.	959.00	1,064.00
3rd Yr.	1,008.00	1,113.00
4th Yr.	1,027.00	1,132.00
5th Yr.	1,041.00	1,146.00
Inspector	1,090.00	1,195.00 "

It should be noted that the Association final offer calls for an increase of \$99.70 per month in 1975 and \$105.00 per month in the year 1976. It should further be noted that the parties are in agreement on the extent of the increase in the second year of the two year contract, i.e., for the year 1976.

The City's offer as summarized in counsel's post-hearing brief consists of the following:

"(1) A monthly across the board wage increase in 1975 of \$69.70 and in 1976 of \$105;

(2) Eight additional hours of holiday pay effective January 1, 1976 for a total of ten paid holidays;

(3) Time and one-half for certain hours worked when called to maintain a minimum staff;

(4) A second improvement in vacation schedules of four weeks after fifteen years (an improvement of 5 after 25 had been previously agreed to in bargaining);

(5) Rescheduling of vacation time lost due to hospitalization resulting from job related injury; and

(6) Equalization of officers' salaries as follows:

Inspectors equalized at 1974 salary level of \$990.00 before 1975 increases

Lieutenants equalized at 1974 salary level of \$1,049.00 before 1975 increases

Captains equalized at 1974 salary level of \$1,150.00 before 1975 increases."

In sum, it is the Association's position (TR-3) as follows:

"The issue before the Arbitrator is that of salary rate for members of Local 407. All other issues have been resolved or dropped by the parties during negotiations leading up to this Arbitration. It is the Union's position that those negotiations were hampered by the City's insistence to have all Units settle for the same monthly increase. This is not true negotiations since they expect all employees to accept what the weakest or least justified Unit would settle for.

"This philosophy of the City is double jeopardy to the Fire Fighters because just 5 years ago they and the City submitted the Fire Fighters pay scale to Binding Fact Finding. As a result the Fire Fighters of this City ended up with a higher pay scale than the Police of the City. The City has over the past 5 years been granting Waukesha Police higher increases than the Fire Fighters, but this year they expect the Fire Fighters to settle for what the Police accepted. This just isn't fair, nor is it true bargaining.

"The Union has based its demand on how Waukesha's Fire Fighters compare to Fire Fighters in the Metropolitan area. It will take a sizable increase just to bring them back to the bottom of the scale. It will take the increase the Fire Fighters are asking for just to obtain the average size increase other Milwaukee area Fire Fighters received. It will take even more than the Fire Fighters are asking for to keep up with the Cost of Living and to maintain an average household. It will take more than the Fire Fighters are asking for to catch up for the amount they have fallen behind over the past 5 years."

Counsel further argues that the City of Waukesha has the financial ability to meet the costs of the award it suggests (Exhibits 2 through 6); that the award it proposes is well in line with other public and private employers within the area (Exhibits 7 through 11); and further that the cost of living statistics of the Bureau of Labor Statistics (Exhibits 12 through 17) lend further credence to its position. Counsel further argues that the fire fighters of the City of Waukesha deserve special consideration for their record of productivity. In this regard, he argues:

"In Exhibits 23, 24 and 25, the Fire Fighters have brought into the record the productivity increases as can be best measured in the Fire Service. Exhibit 23 points out the amount of assessed valuation per Fire Fighter on duty has risen 54% during the past eight years. Again in Exhibit 24, we find nearly a 35% increase in the amount of people protected compared to the amount of men on duty. Exhibit 25 is probably the most accepted comparison of productivity for Fire Fighters since it covers the amount of emergency runs per year as compared to the amount of men on duty each day. Here the emergency runs increased 63% without any additional manpower during the past eight years."

In conclusion, he argues:

"The requirement of the Fire Fighters to be on call and available for immediate response to a fire or emergency is unique to the Waukesha Fire Fighters. The 'on call' time does restrict a Fire Fighter in many ways on his normal off duty time. No other Fire Fighters in the area have such a requirement; no other Waukesha City Employees have this restriction put on their off duty time. (Tr. 31) Not only does it inhibit the Fire Fighter but it does provide a service to the City since they know they have a standby emergency service at all times.

* * *

"It is the Union's firm belief that the Final Offer of the Union is the most reasonable of the two positions when judged by each and every criteria the Arbitrator has to use as a guideline under 111.77."

Counsel for the City in material part argues as follows:

"The City's final offer amounts to a ten percent (10%) increase in the wage-fringe package in each of the two years of the contract (Tr. p. 99). In arriving at this figure the Personnel Committee considered the request of the firemen, projected revenues, costs of the salaries proposed, and settlements of other city units (Tr. pp. 91-92, 116).

"The Association now contends that the firemen should receive the extra wage increase in the first year to regain an alleged ratio or comparability held several years before vis-a-vis the police (Tr. p.3). No evidence was ever introduced showing what the comparative positions of the firemen and police were at the time the firemen claim to have had the edge. No evidence was given as to whether this was historically a constant -- as to the justification for such a relationship or as to the then relationship of the groups in fringe benefit packages which may have been an offsetting factor.

"Furthermore, it should be noted that the complaint that the firemen have lost ground as compared to the police was heard for the first time at the arbitration.

* * *

"The Association urges that Waukesha be compared with Milwaukee and suburban communities located immediately adjacent to Milwaukee. However, no credible evidence was presented showing why such communities were comparable.

* * *

"The City believes that other cities of a size comparable to its own are more relevant as comparisons (City Exhibit 4). The City has averaged salary and fringe benefits programs of the following communities and believes such information germane to this proceeding:

South Milwaukee
Sheboygan
Kenosha
Oshkosh

West Bend
Racine
Janesville
St. Francis

"While the 1975 wage issue is the only issue still in dispute the City believes the entire economic package should be viewed in its totality for a meaningful evaluation.

* * *

"It is important to labor relations stability and the vitality of collective bargaining that settlements in other city units be given great weight.

"The several advances in fringe benefits proposed by the City, which were not agreed upon in negotiations, are vital to the fulfillment of the City's goal to treat all City employees alike in the area of fringe benefits. Adoption of the Association's proposal will necessarily mean that these fringe benefits will be postponed. Furthermore, there exists the probability that in future bargaining the disparity which would be created in fringe benefits if the Association package is adopted, would be used by the firemen to demonstrate their then 'inequitable' position as compared to other city units.

* * *

"The City's package for 1975 costs \$1,003,187.00 and for 1976 costs \$1,103,506.00 for this unit alone. The 1975 increase in wages is \$49,348 and in fringes \$45,163. The average fire fighter's wage is \$12,434, with fringe benefits equaling \$4,572 for a total 1975 average compensation of \$17,000.00.

"The Association's additional wage demands for 1975 amount to \$21,240.00. This increase is not justified by the evidence in this record. Based on all appropriate factors, the City respectfully requests the adoption of the offer."

Of the factors to which the arbitrator is required to give weight pursuant to 111.77(8) of the Wisconsin Statutes, several are clearly not applicable in these proceedings, e.g., the financial ability of the Employer to meet the costs of the two proposals has not been placed in question and hence on the record of these proceedings, it must be assumed that either proposal falls within the statutory prescription.

As to those factors which are applicable, they may best be considered in concert. The Association places heavy reliance on a comparison of its proposal with those of the City of Milwaukee and other communities in the Milwaukee County area, while the City emphasizes the comparability of its offer with communities of comparable size within the State, including several of which are in the general Milwaukee metropolitan labor market area. On the basis of the comparison urged by the Association, the City of Waukesha Fire Fighters are being paid at a rate substantially below the City of Milwaukee and several other communities in the immediate Milwaukee area. On the basis of the several cities urged as more directly applicable by the Employer, the 1975 Fifth Year Fire Fighter's monthly rate for the City of Waukesha would be \$1,011 as compared to a rate of \$971 for the eight cities alleged to be more directly comparable.

The evidence adduced at the hearing as well as the statistical analysis contained in the various exhibits of both parties is neither clear nor convincing. Likewise, the attempt by the Association to compare average hourly rates of pay for major Waukesha industries with hourly pay rates for the Waukesha Fire Fighters (as set forth in its Exhibit 10) fails to take into account the many variables implicit in any such comparison. In sum, little probative evidence was produced in these proceedings which would be persuasive in establishing the superior reasonableness of one proposal over the other.

On the cost of living factor, the basic statistical data would seem to favor the wage proposal of the Association. However, the statistical analysis presented by the Association fails to take into account the full economic impact of the City's proposal as it would affect the average family's day-to-day purchasing dollar. For example, as counsel for the City points out: "... 5.7% of the Consumer Price Index is devoted to the cost of health care. Since the City provides a fully funded major medical plan, the impact of any increase in the index on a firefighter is further attenuated. See BLS Handbook of Methods, U.S. Department of Labor Bulletin 1711." It should be noted that the steadiness and security of employment implicit in the fire fighters' employment status with the City of Waukesha also serves to ameliorate the escalation of the Consumer Price Index. Furthermore, recent CPI releases by the B.L.S. would seem to indicate that after peaking in September, 1974, the CPI has been rising at a much slower pace since, e.g., the CPI rose 0.3% in August, the last report available.

As to the wage issue standing alone, it should be noted that the Association's offer calls for an increase of \$99.70 per month in 1975 and \$105 per month in 1976. The City's final offer on wages calls for an increase of \$69.70 per month in 1975 and \$105 per month in 1976.

It is impossible to judge the reasonableness of the two wage proposals without taking into account the entire economic package negotiated for the two year contract period. Certainly the direct cost of fringe benefits must be taken into account even if one were to ignore rollup costs if a meaningful evaluation is to be made. In addition to the wage increase proposed by the City, the costs of its proposed fringe benefits may be summarized as follows: (1) improved vacation by adding a four week after 15 years - \$2.17 per month per employee; and (2) added holiday effective January 1, 1976 - \$2.85 per month per employee. In addition, during the course of negotiations it was agreed that the City would pay the entire cost of group hospitalization, surgical, out-patient and diagnostic insurance in 1975, the increased cost of which is estimated to be \$20.41 per month per employee. The City has also agreed to pay any increase in the cost of such coverage in the year 1976. The City's proposal to equalize all incumbent firemen's salaries at the rate set forth in the 1974 contract is estimated to cost \$4.01 per month per employee. Counsel for the City also observes, "The two year contract proposed by the City also includes the following benefits, the maintenance of which involve increased costs to the City during the contract term: Sick leave, \$1.37 per month per employee; pension, \$21.93 per month per employee; holiday, \$2.39 per month per employee; vacation, \$6.18 per month per employee; premium pay, \$.88 per month per employee." Counsel estimates the total direct and indirect costs of fringe benefits in 1975 as \$63.79 per month per employee.

On the basis of the evidence presented in these proceedings, it is the opinion of the arbitrator that the proposal of the City as amended is the more reasonable and the arbitrator, therefore, adopts that proposal as his award. This is not to say that the Association's proposal is unreasonable. However, there is a paucity of evidence to support the two basic contentions advanced in support of the Association's proposal, i.e., that the Waukesha fire fighters' wage rates are more directly comparable to those of Milwaukee and the several communities in its immediate labor market area and that in some manner the fire fighters' salary rates have gotten out of line with some historical relationship established in past years. Furthermore, there is much to commend the effort by the City in its proposal to bring into harmony the fringe benefits of the fire fighters with other City employees and other units of City government. Certainly a ten percent increase in economic benefits for each year of a two year contract cannot be called unreasonable. Therefore, on the basis of the whole of the evidence presented in these proceedings, the arbitrator adopts the proposal of the City as his award.

A W A R D

The amended final offer of the City of Waukesha for the contract period beginning January 1, 1975 and ending December 31, 1976 is adopted as the award in these proceedings.

Respectfully submitted,

Philip G. Marshall /s/
PHILIP G. MARSHALL

October 10, 1975