BEFORE THE ARBITRATOR

In the Matter of the Petition of

FIRE FIGHTERS LOCAL 275, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO

For Final and Binding Arbitration Involving Firefighting Personnel in the Employ of

CITY OF NEENAH (Fire Department)

Case XVIII
No. 22898
MIA-382
Decision No. 16353-A

Appearances:

Mr. Leroy H. Waite, IAFF representative, appearing on behalf of Fire Fighters Local 275, International Association of Fire Fighters, AFL-CIO.

Mr. James Gunz, City Attorney, City of Neenah, appearing on behalf of the City of Neenah.

ARBITRATION AWARD:

On May 17, 1978, the undersigned was appointed impartial arbitrator to issue a final and binding arbitration award in the matter of a dispute existing between Fire Fighters Local 275, International Association of Fire Fighters, AFL-CIO, referred to herein as the Union, and the City of Neenah (Fire Department), referred to herein as the Employer. The appointment was made by the Wisconsin Employment Relations Commission, pursuant to Wisconsin Statutes 111.77 (4)(b) which limits the jurisdiction of the arbitrator to the selection of either the final offer of the Union or that of the Employer. Hearing was conducted on July 11, 1978, at Neenah, Wisconsin, at which time the parties were present and given full opportunity to present oral and written evidence, and to make relevant argument. No transcript of the proceedings was made, and the parties made oral argument at the conclusion of hearing. No briefs were filed.

THE ISSUE:

Final offer of the Union:

All 1977 contract language the same except those agreed upon during bargaining.

(1) Salary Increases in 1978 shall be

Fire Fighter	$80.00 per month increase
Driver Engineer	85.00 per month increase
Lieutenant	85.00 per month increase
Captain	90.00 per month increase

(2) agree to Cap college credits at $2.30/credit.

Final offer of the Employer:

May 1, 1978

(1) $75.00/month across-the-board on wages

(2) Cap college credits at $2.30/credit

(3) Retain current longevity schedule

While the final offer of the Employer contains three items and the final offer of the Union contains two items, at hearing the parties stipulated that the college credits and longevity issues set forth in the final offers are in agreement between the parties; the sole issue before the Arbitrator, then, is the wage issue as set forth in paragraph (1) of the respective final offers.

STATUTORY CRITERIA:

111.77 (6) of the Wisconsin Statutes establishes the criteria which the Arbitrator is to consider in arriving at his decision 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 costs.

(d) Comparison of the wages, hours and conditions of employment of the employes involved in the arbitration proceeding with the wages, hours and conditions of employment of other employes performing similar services 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.

At hearing the Employer took the position that he places his reliance on the criteria set forth at 111.77 (6)(d); and the Employer evidence adduced at hearing was primarily directed toward establishing that the Employer offer would place the fire fighters of the Employer in a favorable situation when compared to other fire fighters.

The Union stated at hearing that they relied on all of the criteria of the statute found at 111.77 (6). The undersigned notes, however, that no evidence was adduced, nor was argument made with respect to the criteria found at 111.77 (6)(a) and (b). Since there was no evidence adduced or argument made with respect to 111.77 (6)(a) and (b) these criteria will not be considered in this decision. Furthermore, the Employer specifically stated at hearing that he was not relying on 111.77 (6)(c), thereby waiving that criteria; the Arbitrator, therefore, will not consider the criteria found at 111.77 (6)(c).

While evidence was adduced at hearing with respect to the cost of living which would be applicable to the criteria found at 111.77 (6)(e); in view of the evidence which shows that the wage positions of the parties are within $5.00 per month at the fire fighter classification; and within $10.00 per month at the driver engineer and lieutenant classification; and within $15.00 per month at the captain classification; and in view of the fact that the Employer offer generates a 6.5% increase while the Union offer generates a 7.2% increase,[1] compared to the cost of living increase of 7% from May, 1977 to May, 1978, and a cost of living increase for the year 1977 of 6.6%; the undersigned concludes that either offer would be acceptable based on the cost of living criteria of the statute, and consequently no further consideration will be given to the criteria found at 111.77 (6)(e).

1) Union Exhibit #4G

With respect to the criteria found at 111.77 (6)(g), the only evidence in the record with respect to changes in the foregoing circumstances during the pendency of the arbitration proceedings relates to the change in the cost of living index. Having previously concluded that the cost of living criteria is not controlling in this matter; and since the only evidence in the record of changes of circumstances during the pendency of the proceedings relates to cost of living; no further consideration will be given to the criteria found at 111.77 (6)(g).

The remaining criteria of the statute as found at 111.77 (6)(d)(f) and (h) will be considered in the discussion below.

DISCUSSION:

The Employer has grounded his case on the evidence which he asserts establishes that the final offer of the Employer maintains the traditional relationship of the fire fighters involved in this dispute compared to the fire fighters in comparable communities. The undersigned has reviewed the evidence with respect to comparability and finds that the Employer offer maintains the position of Neenah fire fighters when compared to the cities of Appleton, Menasha and Oshkosh.[2] Since the Employer offer maintains the position of Neenah fire fighters when compared to fire fighters of comparable communities, the undersigned concludes that the Employer offer is preferred when measured against the statutory criteria found at 111.77 (6)(d).

A limited amount of evidence was presented at hearing with respect to fringe benefits, which would be applicable to the criteria found at 111.77 (6)(f), the overall compensation received by the employees. The evidence in the record is not sufficient so as to make this a controlling criteria; however, what limited evidence was presented leads the undersigned to conclude that the Employer is not adversely affected when considering the criteria found at 111.77 (6)(f).

The Union relies primarily on the statutory criteria found at 111.77 (6)(h) in support of its position. The criteria at (h) directs the Arbitrator to consider "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....." The record establishes that a wage relationship between the fire fighters of this Employer and the police of this Employer was established and maintained between the patrolmen classification of the police and the fire fighter classification of the fire fighters, wherein the rates of pay for the fire fighters and patrolmen were identical at the top three steps of the respective classifications at least since 1975. The Union argues that its offer would maintain the integrity of the aforementioned relationships between police and fire fighters.

From the preceding paragraph it is clear that the issue before the Arbitrator is whether the parity relationship between police and fire fighters in the City of Neenah should be maintained. There is considerable arbitral opinion in police and fire fighter arbitrations, to the point that the relationships between the pay of policemen and firemen, which have been established over the years, should not be disturbed. In International Association of Firefighters Local 311 vs. City of Madison, MIA-177 (Decision No. 14176 A) 3/1976, Arbitrator Zeidler's comments with respect to the issue of parity typifies arbitral authority on parity relationships as follows:

> The key question, then, is should the historic patterns of internal relationships on base wages shown by the City to exist between the Fire Fighters and the Police Officers, and in the basic pattern of settlements between the various organized employees be broken? The arbitrator is of the opinion that the public interest would be best served by maintaining the historic relationships on wage settlements inside the City employment. The Fire Fighters are at near parity with Police Officers which this arbitrator considers a most important factor in establishing equitable wage relationships.

2) The parties stipulated at hearing that these communities are comparable

> Next the matter of internal comparisons, not only with Police (parity) but with other employees, must be considered. With respect to the compensation of Police Officers, the arbitrator was interested to learn that the City said it was not urging parity, but that nevertheless it did urge historical relationships with the police. Historical relationships with police compensation are not identical with parity but similar to it. In the case of the Madison Fire Fighters and Madison Police Officers, there is a condition of wage rates which is near parity. Because it is difficult to compare Fire Fighters with any other type of employee except Police Officers to judge a fair rate of compensation, the arbitrator has observed the relationships between the categories and judges that the City is approaching parity. The City offer seems fair then, especially when considered in light of the rate of settlement with other employee organizations.

From the foregoing it would seem that arbitrator opinion holds that parity relationships which have been established over the years are not to be disturbed, except for good and sufficient reason. It remains, then, to determine whether good and sufficient reason for disturbing the parity relationship exists in the instant matter.

From the record the undersigned is satisfied that the Union offer would maintain the parity relationship that has historically been established between the police and fire fighters of the Employer, while the Employer offer would disrupt the parity relationship that has previously existed. The undersigned has reviewed the evidence carefully to determine whether there is sufficient reason to disturb the wage relationship that has existed between police and fire employees of the Employer in the past. The evidence clearly shows that the total settlement arrived at through bargaining with the police contained a superior wage settlement for police than the Employer offer to the fire personnel. The record, however, also discloses that as part of the total settlement, the police and the Employer bargained for the elimination of the cruiser driver classification, and more significantly reached an agreement with regard to compensatory time and vacation replacement, which generated significant savings to the Employer. The record establishes that at the time of settlement the estimate of savings because of the negotiated vacation replacement provision, was $9600 per year in favor of the Employer. The record further discloses that the savings experienced because of this provision is closer to $12,000 annually. In view of the special proposals that were addressed in the police negotiations, that do not exist in the fire negotiations; and recognizing that the superior settlement with police when compared to the offer to the fire fighters of the Employer is largely offset by the savings generated by the change in the vacation replacement provision of the police contract; the undersigned is satisfied that there is good and sufficient reason in this round of bargaining to establish a separate pattern of settlement for the fire fighters from the settlement entered into between the Employer and the police. Having concluded that good and sufficient reason exists to depart from the historical parity settlements that have previously existed between police and fire employees of the Employer, it follows that the Employer offer in the instant matter is preferred, and the Arbitrator makes the following:

AWARD

Based on the statutory criteria, the exhibits, the arguments of the parties, and for the reasons as stated in the discussion above, the Arbitrator determines that the final offer of the Employer be incorporated into the Collective Bargaining Agreement for the year 1978.

Dated at Fond du Lac, Wisconsin, this 21st day of July, 1978.

Jos. B. Kerkman /s/
Jos. B. Kerkman,
Arbitrator

JBK:rr