

AUG 08 1985

STATE OF WISCONSIN
BEFORE THE ARBITRATORWISCONSIN EMPLOYMENT
RELATIONS COMMISSION

In the Matter of the
Arbitration Between

FOREST COUNTY DEPUTY SHERIFF'S
ASSOCIATION

and

FOREST COUNTY

Case 29

No. 33742 MIA-914

Decision No. 22061-B

Sharon K. Imes
Arbitrator

APPEARANCES:

Rogers & Bremer, Trial Lawyers, by James T. Rogers and Mark Klin-
ner, appearing on behalf of Forest County Deputy Sheriff's Associa-
tion.

Lawrence R. Heath, Attorney at Law, appearing on behalf of
Forest County.

ARBITRATION HEARING BACKGROUND:

On January 9, 1985, the undersigned was notified by the Wis-
consin Employment Relations Commission of appointment as arbitra-
tor, pursuant to Section 111.77(4)(b) of the Municipal Employment
Relations Act in the matter of impasse between the Forest County
Deputy Sheriff's Association, hereinafter referred to as the
Association, and Forest County, hereinafter referred to as the
County or as the Employer. Pursuant to the statutory requirements,
the undersigned is limited in jurisdiction to the selection of
either the final offer of the Association or that of the County.
Hearing was conducted on March 20, 1985 at Crandon, Wisconsin.
At that time the parties were present and given full opportunity
to present oral and written evidence and to make relevant argu-
ments. The proceedings were not transcribed. Post hearing briefs
and reply briefs were filed with and exchanged through the arbi-
trator. The last exchange occurred on June 26, 1985.

THE ISSUE:

The remaining issue at impasse between the parties is salary.
The final offers of the parties are attached as Appendix "A" and
"B".

STATUTORY CRITERIA:

Under the Municipal Employment Relations Act, it is required
that the arbitrator choose the entire final offer of one of the
parties on any unresolved issue after having given consideration
to the criteria identified in Section 111.77(6) Wis. Stats.

POSITIONS OF THE PARTIES:

The parties not only differ on the unresolved issue but upon
the counties which they consider comparable. The Association sug-
gests the primary comparables should be Langlade, Oneida and Vilas
Counties, yet proposes several counties throughout the state as
comparables, as well. The County contends the comparables should
consist of Langlade, Oneida, Oconto, Florence and Vilas Counties
and yet cites specific reason for why it feels Florence and Oconto
Counties should be excluded from the comparables. In addition,
the County posits internal comparisons should also be considered
but there was no evidence submitted in the record regarding the
internal comparables.

On the merits of the salary dispute, the Association argues

its offer is the more reasonable since it provides catch-up for the deputies even though the pay remains lowest among the comparables, no matter which set of comparables is utilized. The County, on the other hand, contends a determination of reasonableness must include an evaluation of the offers as they compare to the average of the surrounding counties and internally. In addition, the County declares the Consumer Price Index percentage increases, private sector wage settlements and actual monetary terms relative to the amounts offered other County employees should also be considered. It concludes that when these comparisons are made, it can only be determined its offer is more reasonable since the County is the financially poorest among the comparables and has the highest unemployment rate.

Positing that it may be the poorest county in the entire state and that its unemployment level may have significantly worsened, recently, the County states there is reason for it to be at the bottom of any list of comparables in the wages it pays its employees. It continues these factors must be considered when any merit is attached to an argument for catch-up.

Further contesting the argument for catch-up, the County declares its employees have been the lowest paid among the comparables, historically, but this fact is offset by it assuming 100% of the health insurance costs. Showing the amount paid on health insurance benefits by employees in other counties, the County asserts the overall differential in pay is lessened because its employees do not have to pay health insurance costs. It continues that the differential among the comparables is even less if the top wage rates are considered.

Comparing its offer to the CPI-W, the County adds its offer more reasonably compares to the increase in the cost of living which has occurred and asserts this is especially so when it is recognized the 1983 arbitration award resulted in an 8% adjustment in wages. Stating the 1984 CPI-W figure was 3.8% and that the January, 1985 CPI index number was at 3.3%, the County concludes its wage offer at 4.4% is reasonable. Addressing the Association's contention that the January 1985 figures are not relevant, the County contends the newer information regarding the cost of living should be considered since there is a statutory criterion which states changes during the pendency of the arbitration proceedings should be considered.

The Association, in addition to arguing the CPI figures are not relevant, rejects the County's arguments relating to health insurance payments, the effect of high unemployment rates and internal comparables. Contending the health insurance payments should not be considered when determining the reasonableness of the offers since the coverage was negotiated in earlier contracts, the Association posits it should not be held accountable for any increase in health insurance costs now since the County understood it was likely health insurance premium rates would increase when agreement was reached on this provision, and it extracted its toll then. The Association also argues the CPI information, as well as the unemployment rate evidence, should not be considered since it is not pertinent to the contract period. It adds the internal comparable arguments should also be disregarded since no evidence was submitted concerning the internal comparables during the hearing.

In support of its offer, the Association contends it is reasonable since it provides catch-up wages for the deputies even though it would remain last in rank among the comparables. Citing the deputies are the lowest paid among the comparables, no matter which comparables are used, the Association declares there is the need to catch up these employees since low wages lead to low morale and job dissatisfaction.

Finally, the Association posits the welfare and interests of the public are best served by its offer. It contends that if

the County is correct in its argument that it suffers from higher unemployment and lower income than comparable counties, need for quality law enforcement personnel increases since the likelihood of crime increases.

In conclusion, the Association posits that since the County has not demonstrated an inability to pay either final offer, nor has it demonstrated its offer is equitable, the Association's offer must be found more reasonable. In reaching this conclusion, the Association posits its offer is more reasonable since it closes the wage gap between the County and its comparables "... and, more importantly, ...pay(s) the deputies an amount closer to their worth."

DISCUSSION:

In considering the comparables, it is concluded they should consist of Florence, Langlade, Oconto, Oneida and Vilas Counties. Setting aside the arguments advanced by the County, it is determined there are several factors which support establishing these counties as the comparables. Among the factors are the counties are contiguous to Forest County; they comprise the northeast corner of the state; they are all relatively sparsely populated; they all contain substantial amounts of national forest lands; they are all rural in nature; they all have few population centers and none have varying large population centers from which they draw influence. Thus, while there are some dissimilarities in population, the differences are not substantial enough to change the characteristics of any county so that it is considered not comparable.

In addition to the demographic factors supporting the selection of the above counties as comparables, it is also noted they were selected as the comparables in the previous arbitration award. Since there is value in maintaining consistency in this process whenever possible so that the parties, when they engage in negotiations, are better able to evaluate their positions, it is the opinion of this arbitrator that previously selected comparables should not be deviated from without specific reason. Thus, it is concluded that for this reason also, the above counties should be the comparables.

As to the merits of the issue in dispute, it is concluded the County's final offer should be implemented. Pertinent to this finding is the Association's failure to demonstrate the need for catch-up and the impact of the County's offer relative to the previous arbitration decision; relative to the wage relationship between it and the comparable counties; relative to the increase in the costs of health insurance premiums assumed by the respective counties and relative to the cost-of-living increases which have occurred.

The Association contends and the previous arbitration award substantiates that Forest County deputies receive the lowest dollar salaries among the comparable counties. Further, the Association posits the deputies will remain the lowest paid, yet, under either offer, thus, there is need for catch-up. While there is no question that Forest County lags behind the comparables in compensation for deputies, that alone is not justification for catch-up. In 1983, the Association's offer was implemented through an arbitration award. At that time, the deputies in Forest County received a dollar and percentage increase which was larger than any increase which occurred among the comparables. In effect, the increase was a measure of catch-up. Now, the Association contends that because it is still the lowest paid, there is still need for catch-up. Without a showing that the deputies continue to lose ground compared to the wages paid other deputies in comparable counties or proof that the increase granted in 1983 was not sufficient to halt the historical erosion in pay which the deputies have experienced, the need for catch-up cannot be concluded.

Relying upon the data submitted, it is concluded the final offer of the County, while less than desirable, is reasonable viewed against

the settlements achieved in the comparable counties.

COMPARISON OF WAGE RATES*
AFTER TWO YEARS OF SERVICE

	<u>1983</u>	<u>1984</u>	<u>\$ Increase</u>	<u>% Increase</u>
Florence	1,374	1,433	59	4.3%
Langlade	1,423	1,487	64	4.5%
Oconto	1,519	1,625	106	7.0%
Oneida	1,381	1,426	45	3.3%
Vilas	1,320	1,366	46	3.5%
Forest	1,286	1,342C 1,364A	56C 78A	4.4%C 6.1%A
Average	1,404	1,467		
Dollar Difference	- 117	- 125C - 103A		
Percent Difference	- 8.4%	- 8.5%C - 7.0%A		

COMPARISON OF WAGE RATES*
AFTER TWO YEARS OF SERVICE
(Excluding Florence County)

	<u>1982</u>	<u>1983</u>	<u>\$ & % Increase</u>	<u>1984</u>	<u>\$ & % Increase</u>
Langlade	1,353	1,423	\$ 70 5.2%	1,487	\$ 64 4.5%
Oconto	1,474	1,519	\$ 45 3.1%	1,625	\$106 7.0%
Oneida	1,317	1,381	\$ 64 4.9%	1,426	\$ 45 3.3%
Vilas	1,260	1,320	\$ 60 4.8%	1,366	\$ 46 3.5%
Forest	1,190	1,286	\$ 96 8.1%	1,342 1,364	\$ 56 4.4% \$ 78 6.1%
Average	1,351	1,411		1,476	
Dollar Difference	- 161	- 125		- 134 - 112	
Percent Difference	-11.9%	- 8.8%		-9.1% -7.6%	

COMPARISON OF WAGE RATES*
AT MAXIMUM PAY

	<u>1983</u>	<u>1984</u>	<u>\$ Increase</u>	<u>% Increase</u>
Florence	1,374	1,433	59	4.3%
Langlade	1,423	1,487	64	4.5%
Oconto	1,519	1,625	106	7.0%
Oneida	1,462	1,510	48	3.3%
Vilas	1,391	1,460	69	5.0%
Forest	1,286	1,342 1,364	56 78	4.4% 6.1%
Average	1,434	1,503		
Dollar Difference	- 148	- 161C - 139A		
Percent Difference	-10.3%	-10.7%C - 9.2%A		

* Data was collected from the contracts, County's exhibits, County's brief, the previous arbitration award and Oneida County arbitration award.

As can be seen from the graphs on page 4, the County's offer, when all of the comparables are considered; when Florence County is omitted, and when maximum pay rates are considered, results in a slight deterioration in position from the previous year, while the Association's offer seeks substantial improvement over its previous position. In analyzing the data, it is found, when the rates paid after two years service are compared and Florence County is included, that the County's offer would result in its deputies being paid \$125 per month below the average paid deputies among the comparables, a drop of \$8.00 from the position established in the 1983 arbitration decision. The Association's offer, however, would result in the deputies improving upon their previous position by \$13.00. When the dollar amounts are considered as percentages, it is determined the County's offer results in approximately the same percentage deviation below the average established in the previous arbitration while the Association's offer would improve upon that position by over a percent.

When the data is analyzed, comparing the two year rate and excluding Florence County because data was not available beyond 1983 and comparing the maximum rates paid deputies among the comparable counties, the results remain much the same. Thus, absent demonstration of the need for further catch-up, the question becomes which offer is more reasonable given other factors.

The County spent considerable time arguing its economic status supports its position. While there is no question that Forest County lags behind the comparables in its per capita income and has a higher unemployment rate than the surrounding counties, the economic data submitted demonstrates the County's economic position is improving relative to the comparables. Thus, in determining the County's offer was reasonable, no weight was attached to this argument. It should also be noted that the data concerning a recent layoff in Forest County was not used in determining the economic well-being of the County. Since the contract in dispute expires December 31, 1985 and should have been implemented January 1, 1985, the economic factors related to the conditions of the County at the time the contract should have been implemented were considered since those were the factors considered by the County when it determined the mil rate it would levy and those were the factors considered by the comparable counties when they reached agreement with their employees.

In the 1983 arbitration decision, the arbitrator found that the deputies' salary should not be lower by a greater dollar disparity than existed in 1983 unless extraordinary circumstances could be demonstrated. In this instance, the County's offer, while causing some deterioration in position, does not return it to its 1982 position relative to the average. Further, its demonstration that it will assume a larger dollar cost in health insurance than all but one of the comparables carries weight in determining the reasonableness of its offer.

The County, in support of its offer, argued the cost of health insurance benefits should be considered as it affects total package costs and as it reduces the actual wage increase received by other employees in comparable counties when they must pay a share of the health insurance premium. The Association, on the other hand, argued these increases should not be factored into considering the reasonableness of the offers because the 100% coverage was previously bargained. Total package costs, which include the increase in costs of health insurance premiums, is an important factor in determining the reasonableness of final offers. In this instance, although a total package cost argument was made, the data was not sufficient to make a comparison based upon it. The County did show, however, that the increase in health insurance costs absorbed by it is substantial and that the only other comparable experiencing a substantial increase was Oneida County where the salary increase was 3.25% due to the rise in the health care costs

No evidence was submitted by either party to show any other

comparable county provided additional benefits which would be costly to the employer and thus contribute substantially to the total package costs. Thus, while the costs of health care premiums may not be the only factor influencing the total package costs to the employer, it appears to be a substantial factor. Therefore, in counties where the premiums have risen only slightly, it is likely the total package cost has not increased substantially over the wage rate percentage increase. This factor, considered with the wage rate percentage achieved in the comparable counties indicates the County's offer at 4.4% increase on wages is more reasonable than the Association's offer at 6.1% (comparison of maximum rates) since the percentage increases among the comparables range from 3.25% to 7.0% with four of the five comparables at 5.0% or less.

As to the County's argument regarding co-payment of insurance premiums, the method of determining costs is based upon the costs to the employer. Thus, while the argument provides an interesting perspective, it was not considered pertinent to this matter.

When the Consumer Price Index is considered, it is again concluded that the County's offer is reasonable. In determining the reasonableness of the offers as they relate to the CPI, the County submitted both current data and data referring to September, 1984. Arguing that changes during the pendency of the arbitration proceedings should require consideration of current data, the County submitted not only the current CPI figures but current unemployment rate figures. While, reasonably, the criterion referred to above could be construed that any changes during the pendency of the proceedings should be considered, very little weight is assigned to a change in the economic data during the pendency of the arbitration hearing absent a showing of inability to pay.

It is conceivable that if considerable weight were given to these changes, the parties, based upon economic forecasts, could intentionally delay reaching voluntary agreement and wait for arbitration, concluding an increase or decrease in the cost of living as projected by economic indicators would benefit one party or the other. Consequently, the economic data prevalent at the time the parties should have reached voluntary agreement is given more weight than any change during the pendency of the proceedings.

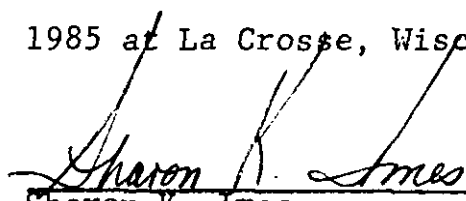
In regard to the pertinent economic data provided by the County, however, it is determined that while both offers are reasonable, the County's is more reasonable. When the County's offer is compared to the increases which occurred among the comparables, another factor often considered in determining the cost-of-living in a particular area, the County's offer is still reasonable.

In conclusion, it has been determined that no proof of need for catch up was made and that the County's offer more closely approximates the increase in wages and benefits received by other employees in comparable counties and is more reasonable compared to the cost-of-living increases which have occurred. Thus, based upon the foregoing review of the arguments and evidence and upon the discussion set forth above as well as a review of the data in relationship to the statutory criteria, the undersigned issues the following:

AWARD

The final offer of the County, attached as Appendix A, shall be incorporated into the 1984-85 collective bargaining agreement, together with those provisions of the predecessor collective bargaining agreement which remained unchanged during the course of bargaining and any stipulations of the parties which reflect prior agreements in bargaining as is required by statute.

Dated this 7th day of August, 1985 at La Crosse, Wisconsin.


Sharon K. Imes
Arbitrator

APPENDIX "A"

Forest County Management - Forest Order 9-17-84

Some language for minimums in Article XIII for
payment of premium

County to pay 26¢ per hour adjustment on January
1, 1984 and 6¢ per hour adjustment on September
1, 1984 under schedule A of Article XIII of
the Agreement

All other provisions of the Agreement to remain
the same

Raymond A. Keith
John A. Stogran

APPENDIX "B"

FOREST COUNTY DEPUTY SHERIFF'S ASSOCIATION

FINAL OFFER - SEPTEMBER 17, 1984

CHANGES IN 1983 CONTRACT FOR 1984

1) WAGES

- a) effective 1-1-84; increase of 3.7% or \$47.59/month
 - b) effective 7-1-84; increase of \$20.00/month
 - c) effective 10-1-84; increase of \$10.00/month
- (increases for all steps)

NO OTHER CHANGES IN THE 1983 AGREEMENT

James R. Ryan
LAWYER