

FEB 03 1986

BEFORE THE ARBITRATOR

WISCONSIN EMPLOYMENT  
RELATIONS COMMISSION

In the Matter of the Petition of

INTERNATIONAL ASSOCIATION OF FIRE  
FIGHTERS, LOCAL 583, AFL-CIO

For final and binding arbitration  
involving Fire Fighting personnel  
and the employees of

CITY OF BELOIT

Case 58 No. 34301  
MIA-958  
Decision No. 22384-A

Stanley H. Michelstetter II  
Arbitrator

Appearances:

Mr. Leroy Waite, Fifth District Vice President, appearing on behalf of the Union.

Mr. Daniel T. Kelley, Attorney at Law, and Lee C. Davis, Personnel Director, appearing on behalf of the Employer.

ARBITRATION AWARD

International Association of Fire Fighters, Local 583, AFL-CIO, herein referred to as the "Union" and City of Beloit, herein referred to as the "Employer," having jointly selected the Undersigned as arbitrator, pursuant to Section 111.77, Wis. Stats.; and the Wisconsin Employment Relations Commission, having appointed the Undersigned as Arbitrator by Order dated March 11, 1985; and the parties having consented to mediation in the matter; and the Undersigned having conducted mediation followed by hearing commencing June 19, 1985, and concluding June 20, 1985; and the parties having each submitted post-hearing briefs, the last submission of which was received November 19, 1985.

ISSUES

The parties are in dispute with respect to the following issues as to their calendar 1985 collective bargaining agreement: The Union proposes to increase all employee classification wages in Article 19 by 3% effective January 1, 1985, and 2% July 1, 1985. It proposes to replace Article 23 "termination" in its entirety with the following language: "This agreement shall be in effect upon the date of signing and shall remain in full force and effect until and including December 31, 1985. This agreement shall automatically be renewed from year to year unless negotiations are instituted by July 1, 1985 and the first day of July of any effective day of this agreement. Therefore (sic) if negotiations are instituted by July 1, 1985 this agreement shall remain in full force and effect until a successor agreement is signed, but not to exceed 3 years as provided by Wisconsin Statutes. Thereafter, the term of this agreement shall be from January 1 to December 31 of each and every year unless otherwise negotiated by the parties hereto." The Union proposes to keep the current language of Appendix A as it is written in the current agreement. It states: "The following listed Department promotions will be tested and evaluated by the Promotional Point System in the following manner: ...

2. Lieutenant - Point System:

- (a) Fire Science Test
- (b) Lieutenant Examination
- (c) Points - Promotional Point System

(1) Written Examinations	27 Points
(2) Educational Background	12 Points
(3) Personality and Conduct	11 Points
(4) Attendance Record	6 Points
(5) Performance	24 Points
(6) Performance/Non-Emergency	7 Points
(7) Oral Interview	15 Points
(8) Seniority	3 Points per year of service

..."

The Employer proposes that for 1985 there be no wage adjustment. Employees would be entitled to step increases as appropriate. 2. The Employer proposes to keep the current language of Article 23 of the current agreement which reads as follows: "This Agreement shall be in effect upon the date of signing and shall remain in full force and effect until and including December 31, 1984, and shall automatically be renewed from year to year unless negotiations are instituted by July 1, 1984 and the 1st day of July of any effective year of this agreement. Thereafter, the term of this agreement shall be from January 1 to December 31 of each and every year unless otherwise negotiated by the parties thereto: ...." 3. The employer proposes to change Appendix A part 2 (lieutenant) to allow a maximum of 30 points.

### POSITIONS OF THE PARTIES

The Union bases its wage position primarily upon comparisons to the percentages of increases granted to other departments in cities of generally comparable size, private employers in the Beloit area, and the cost of living. It supports this view with the position that the Employer has increased demands upon the department by increasing work load, slightly decreasing staff and requiring Emergency Medical Technician training of all newly hired personnel. It takes the position that its proposed change in language in the term of agreement clause is supported by comparison to the police contract and other fire departments around the state. Similarly, it takes the position that strict seniority promotion to lieutenant is supported by comparison to other contracts around the state. It takes the position that the Employer has the ability to meet its demands by applying more of the balancing fund. It also takes the position that the city has understated its revenues and historically overstated its expenditures.

The Employer takes the position that the public interest and welfare require the adoption of its final offer. It takes the position that the Employer represents the public interest and its determination, by virtue of having budgeted no wage rate increase, is a statement of the public interest which the arbitrator is required to take into account and give heavy weight as a matter of law. It takes the position that the City of Beloit has been faced with increasing demands and expenses requiring steadily increasing expenditures, while its revenues have dropped considerably from 1984 to 1985. Specifically, its nonproperty tax revenue dropped \$793,000 from 1984, chiefly because the Surplus Fund Balance to be applied to 1985 was decreased \$800,000 in order that the city retains sufficient surplus funds to meet their cash needs. As a result, the Employer has had to increase the property tax levy by \$673,000 for 1985 which resulted in an increase of the property tax rate from \$7.55 to \$8.77 per \$1,000. It notes that since 1980 the equalized property tax base for the city has remained relatively constant at about \$550,000,000 even though there was considerable inflation in the period. It notes that the City of Beloit has the least economic ability to pay for wages and other increases compared to other Wisconsin municipalities over 20,000 population. Beloit is the second lowest in average full value for residential improved parcel. It takes the position that, based on the expert testimony of Professor L. Emil Kreider, that Beloit has the absolute lowest property value per capita: \$16,033 among such cities. It also notes that Beloit is the third highest full value tax rate among such cities (excluding Milwaukee metropolitan communities.) It notes that the City of Beloit had the greatest dollar amount of equalized net tax rate increase for all purposes from 1983 to 1984 which far exceeded the next rank city, Sheboygan. It relies on the testimony of Professor Kreider for the proposition that the heavy taxes are particularly burdensome to the people of Beloit. It notes Professor Kreider's testimony and offered evidence that Beloit has the 4th lowest adjusted gross income per capita among the 24 large cities surveyed. The per capita of income of Beloit is \$7,206 whereas the state average is \$7,583. It relies on the testimony and calculations of Professor Kreider to show that the

tax rate adjusted for relative income of the 24 cities compared indicates that the "tax effort" in Beloit is higher than the vast majority of communities. Upon this basis it takes the position that there is a financial crisis in Beloit leading to a cycle of population decline, fewer jobs, and relative reduction of income level and property levels. It takes the position that by comparison to the cities of Appleton, Eau Claire, Fond du Lac, Janesville, La Crosse, Oshkosh, Sheboygan, and Wausau, City of Beloit fire fighter's rank very highly and, even with the Employer's final offer, would continue to rank very highly among these comparables. These comparisons are based on an hourly rate (Beloit has a 53 hour work week and most of the others have a 56 hour work week.) It also relies on the testimony of Professor Kreider and comparisons both to first year wage increases in the private sector as reported by the various services for national basis and local area private employer settlements. Many of these settlements were for no or little increase for 1985.

### DISCUSSION

Pursuant to Section 111.77, the arbitrator is required to select to final offer of one party or the other without modification. The choice of which final offer is to be selected is based on various factors specified in the statute. In this case the factors to be applied are: 1. the lawful authority of the Employer, 2. the interest and welfare of the public and the financial ability of the unit of government to meet these costs, 3. comparison of the wages, hours, and conditions of employment of the employees involved with the wages, hours, and conditions of employment of other employees performing similar services and with other employees generally in public employment and comparable communities and private employment in comparable communities, for the average consumer prices for goods and services, 4. the overall compensation presently received by the employees, 5. changes in any of the foregoing circumstances during the pendency of the arbitration proceedings, 6. other factors traditionally taken into account.

#### Cost of Living

The Employer costs the Union proposal (total package), at 5.05%. The Employer has proposed no wage increase; however, there is some cost associated with step increases and possibly other adjustments. The Employer has submitted no costing for this. The change in the urban wage earners and clerical workers U.S. city average consumer price index from January 1984 to January 1985 was 3.4% and for all urban consumers was 4.3%. Based upon a review of the parties' last collective bargaining agreement and the Undersigned's experience in costing, I conclude that the cost of living factor favors the Union's position.

#### Comparisons

The Union offered comparisons to the cities of Racine, Wauwatosa, Waukesha, Kenosha, Appleton, Oshkosh, Fond du Lac, Manitowoc, Sheboygan, and Janesville. The Employer offered comparisons to Eau Claire, La Crosse, Wausau, and Janesville for wage purposes, but used all of the cities over population 20,000 for fiscal comparisons. The following chart provides comparative useful data:

City	population	per capita evaluation	per capita income	relative cost of living
Racine	81,733	19,585	8,986	
Wausatosa	50,941	35,272	11,107	
Waukesha	51,633	26,760	10,037	
Kenosha	76,162	19,022	8,735	
Appleton	60,605	23,955	9,735	95.8
Oshkosh	50,675	20,261	7,538	99.3
Manitowoc	33,057	21,369	7,762	
Fond du Lac	35,925	20,002	7,986	99.6
Sheboygan	47,749	20,775	8,263	
Eau Claire	52,561	18,831	7,065	
La Crosse	48,773	24,285	7,356	96.3
Wausau	31,848	25,710	8,803	98.5
Janesville	51,165	22,908	9,503	89.6
Beloit	34,051	16,033	7,206	

I have chosen to use all of the communities which were submitted by either party. The following is the comparison of journeyman fire fighter.

City	work week	1984 rate	1985 rate	increase	rank
Racine	56	2,120			3
Wausatosa	56	2,256			1
Waukesha	56	2,157			2
Kenosha	56	1,962			4
Appleton	56	1,898	1,990	4.8%	8
Oshkosh	56	1,921	2,011	5.0	5
Manitowoc	51.8	1,791	1,863	4.0	11
Fond du Lac	56	1,820	1,911	5.0	9
Sheboygan	56	1,670			13
Eau Claire	56	1,804			10
La Crosse	56	1,653			14
Wausau	56	1,750			12
Janesville	56	1,911	1,983	3.75	6
Beloit	53	1,907	1,907 (Er,)	0	7
			1,964 (Un,)	3.0 1/1/85	
			2,003	2.0 7/1/85	

There is a strong history of relationship between unit wages and wages paid fire fighters in other similar units. Among the Employer's ten selected comparison communities (including Beloit), the Union's position has risen from seventh in 1972 to fifth in 1975 to third in 1984 (Journeyman fire rate). Taken with total compensation, there can be little doubt that Beloit is well paid.

If the final offer of the Union is accepted, by the end of the year, Beloit will surpass Janesville and rival Oshkosh by only \$8.00 per month. If the final offer of the Employer is adopted, Beloit will fall behind Appleton, Fond du Lac, rivaling both Fond du Lac, and Eau Claire.

The available data indicates that the lowest settlement is 3.75% in nearby Janesville, with most others well above 4%, including more highly paid Oshkosh. I conclude the comparative data favors the Union's position.

#### Public Welfare

The Employer has the financial ability to meet the demands of the Union in this case. It can apply its fund balance below its self imposed reserve level and, if necessary, borrow to meet its cash flow needs. The Employer has the taxing authority to ultimately raise the revenue necessary to meet the Union's offer.

The thrust of the Employer's position is that the tax payers

of Beloit would be too heavily burdened by the taxes necessary to pay for the Union's offer. The per capita income in Beloit is \$7,206. whereas Janesville is \$9,503. Of the comparison cities, Beloit is rivaled only by Eau Claire, La Crosse, and Oshkosh for lowest per capita income of its residents. Other low communities are Manitowoc and Fond du Lac. Professor Kreider took the position that the tax effort in Beloit was exceedingly heavy by comparing the tax rates of many Wisconsin communities adjusted for the difference in per capita income. This method of analysis disregards the fact that Beloit has rather relatively low property values. Thus, analysis of tax rate alone is misleading. I have followed Professor Kreider's approach using figures supplied by the Employer. I have similarly made adjustments for the relative income. It should be noted that the following excludes the effect of state credit:

City	1983 eff. tax rate	adj. for relative income	1984 grs. res. tax per psn. col. in 1985	adusted for per capita income
Racine	.02465	.02080	133.37	106.95
Wausatosa	.02745	.01874	235.44	152.74
Waukesha	Not Available		121.91	87.52
Kenosha	.02386	.02071	116.14	95.81
Appleton	.01994	.01553	111.37	82.44
Oshkosh	.01897	.01908	76.89	73.50
Manitowoc	.01855	.01812	77.42	71.87
Fond du Lac	.02112	.02006	82.94	74.84
Sheboygan	.02399	.02201	105.93	92.38
Eau Claire	.02313	.02482	88.03	89.79
La Crosse	.02185	.02253	97.23	95.25
Wausau	.02138	.01842	102.14	83.61
Janesville	.01952	.01558	84.00	<u>63.70</u>
			Average without Beloit	90.03
Beloit	.02199	.02315	92.70	92.70

The above table does confirm that the tax effort in the city of Beloit, adjusted to relative income, is high, but not particularly out of the range which is normal for the communities surveyed. Taken with the other offered evidence of limited resources, I conclude that Beloit tax payers do bear a somewhat heavy tax burden for their means although it appears to be essentially in the normal range.

When tax levels become burdensome, the public interest requires a balancing of paying comparable salaries in order to maintain needed services (including morale), against the burden which the increase creates on the public. In this case, the public interest factor tends to favor the Employer's position.

#### Other Factors

The Employer took the position that unit employees ought to be paid substantially less based upon the relative cost of living, application and turnover data, local per capita income and other fire wage rates in South Beloit, Illinois, and Beloit Township. The wages paid fire fighters in nearby Janesville are about the same as those paid in Beloit and comparable to those paid around the state. Janesville shares approximately the same cost of living as Beloit and many of the same conditions which usually determine wages. While the Employer has showed low turnover and high applications for vacant positions, Employer exhibit 1A indicates that this is a state-wide phenomenon. The Employer has not shown a difference between Beloit and Janesville or the rest of the state. While Beloit does have a lower per capita income than Janesville, the Employer has not, otherwise, made a sufficient showing that this unit's relative wage standing should be substantially lowered.

#### Term of Agreement

The Union has proposed a provision continuing the contract in effect until negotiations are completed. There has been no offered evidence of any problem which has arisen in the hiatus

between contracts between these parties. This provision is found in the Beloit police contract. There is very little support offered by comparison to other fire contracts. There has been no showing of a history of uniformity of contract language between fire and police contracts. Accordingly, this issue favors the Employer.

#### Promotions

Very little testimony was directed to this issue. The Employer's Personnel Manager, Lee Davis, testified that by virtue of the aging of the work-force, the lieutenant promotional procedure is too strongly affected by seniority. He indicated that employees who are undertaking to advance themselves educationally have little chance to achieve promotion. He testified that the average years of service at promotion was 17 with the most common number of years at promotion being 16. The language of the agreement suggests it was designed to afford the weight to other factors when relative seniority is close. The Employer's proposal would make promotions entirely competitive after ten years. Although the Union has attempted to show, it has failed to show, a substantial number of comparable contracts with seniority provisions for promotion to lieutenant nearly this strict. Under these facts, this issue favors the Employer.

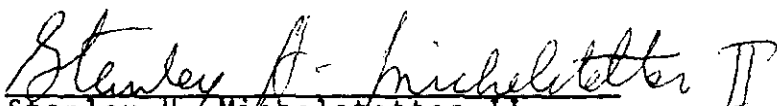
#### Weight

Pursuant to Section 111.77, Wis. Stats. it is my responsibility to select the final offer, without modification, of the party which most nearly meets the statutory criteria. In this case the wage issue clearly is of such major importance that it outweighs entirely the other two minor language issues. The offer of the Union at 3% January 1 and 2% July 1, and the offer of the Employer at 0%, are both unreasonable under the facts. It is, therefore, my sad duty to have to select the better of two undesirable offers. In my view, the tax burden on the people of the City of Beloit, does justify some limited restraint in the growth of wages. While I am not satisfied that the wages of the instant unit are excessive and unreasonable, they are, none the less, relatively high. The Employer's proposal herein drastically reduces the relative standing, while the Union's proposal unjustifiably improves it. While neither offer is particularly justified, the Union's offer is closer to the appropriate result.

#### AWARD

That the final offer of the Union be incorporated into the parties' collective bargaining agreement.

Dated at Milwaukee, Wisconsin, this 31st day of January, 1986

  
Stanley H. Michelstetter II,  
Arbitrator