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198

STATE OF MICHIGAN  
DEPARTMENT OF LABOR  
EMPLOYMENT RELATIONS COMMISSION

In the Matter of

BENTON HARBOR BOARD OF EDUCATION

-and-

BENTON HARBOR EDUCATION ASSOCIATION

Michigan State University  
LABOR AND INDUSTRIAL  
RELATIONS LIBRARY

On August 27, 1970, the undersigned, Leon J. Herman, was appointed by the Employment Relations Commission as its hearings officer and agent to conduct a fact finding hearing relevant to the matters in dispute between the above parties, pursuant to Section 25 of Act 176 of Public Acts of 1939 as amended, and the Commission's regulations. Accordingly, and upon due notice, hearings were scheduled and held on September 10 and 26 and October 13, 1970 at the offices of the Board of Education, Benton Harbor, Michigan.

Darrel Jacobs, Attorney; Robert W. Payne, Assistant Superintendent; Robert R. Smith, Director of Budget Finance, Accounting and Raymond M. Sreboth, Assistant Superintendent for Business Affairs, represented the Board of Education.

Donald A. James, MEA Area Director; Camilla H. Hunt and Frances W. Shuck, Co-Chairmen; Roger Peterson, President; Bernard Weidner, MEA Insurance Representative; Dick Braine, Kay Schmidtman, Greta V. Hines, William Crow and Veryl Davis appeared on behalf of the Association.

Benton Harbor Board of Education

The Benton Harbor School District employs 538 teachers, over 400 of whom are members of the Benton Harbor Education Association. The School population as of the unaudited fourth Friday in September count is 11,731 pupils. A dispute with the Coloma School District regarding an annexation by one or the other district, now pending before the State Board of Education, may reduce the number of pupils somewhat.

The principal issues in this dispute between the parties were the proposed salary schedule for the 1970-1971 school year and the payment of health and hospitalization insurance for the teachers by the Board of Education. Incidental issues were compensatory payment for extra duty, payment for vocational education, the composition and election of an instructional policy council and the agency shop.

In the course of discussions, settlement was reached on the extra pay for extra duty and vocational education payment issues. A stipulation was adopted to determine the formation and provide for the election of members to the instructional policy council. The Association accepted the Board's offer of single subscriber health and hospitalization insurance for all teachers, to be provided either by Blue Cross or the MEA hospitalization program, as the teacher preferred.

There is no question that the Board faces a serious deficit in this current school year. The deficit is currently estimated at \$120,000, subject to rectification up or down as the dispute with Coloma is determined and other factors are considered.

The teachers have expressed their willingness to accept the salary schedule proposed by the Board. The bachelor's schedule provides for a beginning salary of \$7,500 increasing to \$12,000 in ten steps. The master's schedule will run from \$8,100 at inception to \$13,500 in twelve steps. Teachers holding a bachelor's degree plus 15 hours will receive \$7800 to \$12,300 in ten steps. Those with master's degrees plus 15 hours will receive \$8400 to \$13,800 in twelve steps. Education specialists and those holding Ph. D. degrees will be compensated at the rate of \$8,700 to \$14,100 in twelve steps. Following Step 2 in each category the index provides for an annual 6% increment.

The one remaining undecided issue is that of the agency shop. This was presented throughout the hearing as a matter upon which the Board of Education holds strong philosophical views in opposition, although its position was never fully clarified. Apparently the Board feels that it is improper for a public employer to agree to a Union type of shop in any form, and that it is unfair to compel teachers who do not wish to join the Association and who do not wish to contribute to the Association's expenses to be compelled to make such payments.

Whatever the personal posture of a fact finder may be with respect to an agency shop provision, he must nevertheless give full consideration and deference to an anti-agency shop policy, when that policy is sincerely held the Board. As individuals and as a group they are fully justified in insisting upon a policy which conforms to their own basic philosophy and which they feel is best for the school system which they are elected to administer. While the agency shop is a bargaining issue, that does not necessarily

mean that the Board must reject its own philosophy and accede to such a provision merely because it is consistent with the Association's view, or even with the position which the fact finder may take.

The philosophy seems to be peculiarly held in the light of the region in which the Board operates. This is a highly industrialized area, with industry such as Whirlpool Corporation, all of which are unionized. This in itself does not mean that the Board is required to reject its own philosophy because it does not conform with the practice in the private sector of the area. It has the right to formulate its policy in accord with the convictions of its members. However, it is highly questionable that such a philosophy is sincerely held in this case. The school administration had earlier offered in writing to grant an agency shop to the Association in exchange for a reduction from 6% to 5% in the salary index. In other words, it is not a veracious philosophy but a bargaining inducement which the administration is proposing as a quid pro quo for economic gain.

The Administration should be reminded that it is in the process of negotiating an agreement under which it and its employees can live in harmony for the term of the contract. It does not necessarily follow that every concession must be accompanied by an equivalent quid pro quo. The purpose of the agreement is to achieve a fair, reasonable and balanced relationship. To offer an agency shop clause for the benefit of the Association in return for a reduction in the employees' standard of living is neither fair, reasonable nor balanced. I look upon it as an attempt to gain economic

advantage in exchange for a provision which the Association needs for its continued nourishment.

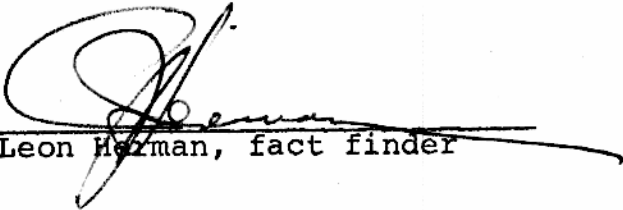
It may be that such nourishment is not considered by the Administration to be in its own best interests. In my belief this attitude is extremely shortsighted. Employee associations are a fact of life in the public as well as the private sector and must be recognized and dealt with accordingly. The Association is forced to expend substantial sums in the negotiation and maintenance of bargaining agreements. These agreements are designed for the benefit of all teachers in the system and not exclusively those who are members of the Association. Any gain in wages or working conditions is a gain for every member of the school faculty, not only for the Association members.

It follows that every member of the faculty should bear a proportionate burden of the cost of attaining better salaries and conditions of employment. They need not become members of the Association, but they should contribute to the cost of improving their own status.

I realize that a number of teachers are also philosophically opposed to Union representation, even though it culminates in benefit to themselves. I therefore recommend that the Board grant an agency shop to the Association, providing for deduction of agency dues from members, and for deduction of a sum equivalent to Association dues from non-member teachers. To protect the non-consenting members of the faculty, I recommend that a grandfather clause be included to provide for those teachers on tenure who refuse to participate in the program. All new teachers entering the system must, as a condition

of employment, become members of the Association or agree to a reduction from their salaries of a sum equivalent to Association dues.

The agency shop issue is the only matter precluding a prompt and complete agreement between the Board and the Association. It seems to me unconscionable that it should be refused to the Association under the circumstances in this situation. I strongly urge the parties to agree upon an agency shop and to conclude the contract without further delay in the interest of good employment relations.



Leon Herman, fact finder

Southfield, Michigan,

October 21, 1970.