

STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

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In The Matter Of:

KALEVA, NORMAN, DICKSON EDUCATION ASSOCIATION

Merc Fact Finding Case No.

and

G 82-F-1499

KALEVA, NORMAN, DICKSON SCHOOLS BOARD OF EDUCATION

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OPINION OF FACT FINDER

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Kaleva, Norman, Dickson Schools

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BINDING FACT FINDING OPINION AND AWARD

The undersigned, William J. McBrearty, was appointed as a binding fact finder in the above case on October 13, 1982, in accordance with the parties labor agreement and the rules and regulations of the State of Michigan Employment Relations Commission.

Hearing was held in Brethren, Michigan on December 12, 1982, at the Kaleva, Norman, Dickson office and school building, 4350 High Bridge Road. Briefs were filed by both sides on January 14, 1983.

Appearances

For Kaleva, Norman, Dickson Education,
Association

Thomas Paterson
M.E.A. Union Service Director

Robert Haight
Chief Negotiator - Union

For Kaleva, Norman, Dickson Schools
Board of Education

Roy E. Ellsworth
Superintendent

Warren R. Black
Expert Witness

Jay K. Thiebaut - C.P.A.

Issue

Should all certified teaching personnel, (of Kaleva, Norman, Dickson Schools) including counselor, librarian and teachers, who work a minimum of one-half day on a regular basis receive a 9% increase on base salaries for the 1982-83 school year and increases in longevity pay from 8% to 25% depending on years of service or, should salaries of above employees be frozen at the 1981-82 level for 1982-83?

Position of Parties

The Union, Kaleva, Norman, Dickson Education Association request increases.

The Employer, Kaleva, Norman, Dickson Schools Board of Education requests a "freeze".

Statement of Facts

The parties to this dispute submitted the questions above to a state appointed mediator on September 20, 1982 who was unable to resolve the issue to the satisfaction of the parties. Article XVIII of the labor agreement between the association and the school board (joint exhibit 2) provides that if negotiations for a 1982-83 salary schedule fail, the schedule "shall be submitted to Binding Fact Finding from M.E.R.C. (Michigan Employment Relations Commission).

Testimony was had and exhibits offered and received on December 14, 1982. Briefs were filed on January 14, 1983 which ably set forth the positions of the employer and employees. This fact finder has read the briefs and all exhibits filed totaling 170-180 pages.

The testimony offered by employer and employees conceded that 1982 was another recession year.

The employer's proofs were that it could not afford to grant increases in teachers' salaries, or in longevity pay because it didn't have the money to do so. It submitted the testimony of an engineer (Black) and a certified public accountant (Thiebunt) and the superintendent (Ellsworth) that the Kaleva, Norman, Dickson schools, buildings and equipment were badly in need of repairs or replacement (school buses, roof, boiler were examples). The board also submitted proof that the Kaleva, Norman, Dickson school district tax payers had refused to vote a millage increase which delayed the opening of their district schools until

November one year (1976), that Manistee County (where the K.N.D. schools are located) is a very depressed county that about 48% of their students receive free or reduced price school lunches. The board introduced exhibits which purport to support their position that Kaleva, Norman, Dickson teachers are presently paid as well as teachers in comparable school districts (roughly 750 student districts) in Northern Michigan, and the employer contends if we raise salaries we will have to reduce the size of our teaching staff. We can't do it in the coming year 1982-83.

The Union offered proofs and exhibits questioning the board's claim that its teachers were as well paid as other Northern Michigan district teachers. And the Union argued, other employees are not asked in these recession times to maintain the status quo of 1979-1980 or 1981 why should the teachers pay for building improvements when the K.N.D. has already "agreed to a 7% increase in the salary schedule for the non-certified employees of the district for the 1982-83 school year?"

What is more important ask the teachers, quality education or improvement in the physical plant of the district?

Briefly, the above states the respective positions of the parties.

Opinion

It is agreed that the conclusion or decision reached by the fact finder in this dispute will be binding, that is final. This is not a "take it or leave it" fact finding case where a "recommendation" is made to the parties. The fact finder here is a court of last resort, the issues are important, very important to the disputants.

There are several questions, besides the bare "freeze" or salary

increase issue here to be determined. These questions (not in order of their importance but as they occur to this fact finder) are interpretation of the labor agreement between the parties (joint exhibit 2) ability to pay, need for a balanced budget, and public interest.

Section A of Article IV of the Master Agreement (joint exhibit 2) states "the salaries of teachers covered by this agreement are set forth in Schedule A, which is attached and incorporated in this agreement. Said salary schedule shall remain in effect for the duration of this agreement".

The Union contends that this paragraph means that "the intent of the contract" is violated if normal annual increments (increases) are not granted "to those teachers who have them coming as a result of this salary schedule structure".

1. The employer contends that the "intent" of the parties is shown in the language of its second paragraph of Article XVIII Duration of Agreement: it reads "Should the parties fail to execute an agreement on the 1982-83 salary schedule on or before August 1, 1982 the salary schedule shall be submitted to Binding Fact Finding from M.E.R.C. (Michigan Employment Relations Commission).

The parties having failed to reach an agreement for teachers' 1982-83 salaries, it becomes the duty of this binding fact finder to set their salaries. (which will be done after analysis of above 4 questions.)

2. Both parties to this dispute having agreed that an economic crisis exists in Michigan (and in Manistee County particularly) that question requires little discussion. Except that the K.N.D. taxpayers (including teachers) being required to pay for 93% of the revenue needed to support their school system have refused or are financially unable to increase their millage taxation to the extent necessary to meet increasing school costs, such as school repairs .

and increases in teacher salaries.

Petitioners (teachers) blame the Board for their failure to "convince" the taxpayers that additional mills are needed for repairs.

Petitioners say the Board has more revenue in the 1982-83 year to meet Board and teacher needs than in the 1981-82 year. Sufficient revenue, petitioners claim, to give a seven percent (7%) increase in the salary schedule for the non-certified employees of the district for the 1982-83 school year.

However, this fact finder was offered no sworn testimony as to how or why another bargaining unit was able to convince the school board that this 7% salary increase was justified in a recession period.

The needs of these non-certified employees, their number (there are 34 teachers here involved) are also not a matter of record and therefore cannot be considered in this dispute. Kaleva, Norman, Dickson Schools Board of Education depends mainly on local sources for revenues necessary to operate their 3 schools. Local sources means local property owners.

The proofs offered here show that 93% of the revenue required by the K.N.D. schools are furnished by the taxpayers of this area, the remaining 7% is contributed by the State of Michigan and the Federal Government.

Attempts at millage tax increases have failed.

Petitioners seek salary increases at a time when the State of Michigan and the County of Manistee have the greatest numbers of unemployed persons since the 30's. It is common knowledge that employees both in the private and in the public sector are taking wage cuts in the last three years.

It is unfortunate that deserving hard-working teachers can not obtain automatic increments each year.

The Union contends they are automatic. This fact finder's interpretation of Paragraph D of Article XVI is that they are automatic in 3 situations only, "upon completion of fifteen hours, a Master's Degree or with a full year's teaching experience".

The burden of proof generally falls upon the grieving party, here the Union representing the teachers, to convince or persuade the trier of the facts that it is entitled to the relief sought.

It is the opinion of the fact finder that this burden has not been proven by a fair preponderance of the evidence submitted.

It is not in the public interest to permit a school board to ignore its requirement to keep school buildings fit for occupancy. The undisputed evidence was that school buildings in the K.N.D. school district required repairs costing roughly \$250,000.00 in the 1982-83 year. Exhibit 23 listed a partial projection of building repairs necessary to complete the planned maintenance program for Brethren High School and Kaleva and Neldston elementary schools.

Examination of the exhibits offered by both sides convinced the fact finder that the school Board of Education of the Kaleva, Norman, Dickson district simply does not have enough reserves to increase teacher salaries and to make the repairs necessary to keep their three schools, servicing 750 students, open. This is particularly so in this particular county in which the State and Federal contributions to the school fund have been decreased drastically the last three years.

Conclusion

It follows from the reasons above given, recession period, lack of sufficient funds, millage vote, required school building repairs, etc., etc. that these facts justify the position taken by the Kaleva, Norman, Dickson Education School

District Board of Education that it is economically imperative that the salaries of K.N.D. teachers remain at the 1981-82 level for the 1982-83 school year.

Respectfully submitted

W. J. McBrearty

William J. McBrearty
Binding Fact Finder