

8/11/81 ARE
(supplemental)

STATE OF MICHIGAN

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

(Statutory Arbitration Pursuant to
Act 312 of the Public Acts of 1969,
as amended)

TOWNSHIP OF CLINTON,

-and-

TOWNSHIP FIREFIGHTERS ASSN., Local
1381, IAFF, AFL-CIO,

WALTER S. NUSSBAUM, Chairman
Appointed by the MERC

RICHARD E. ROSIN, Member
Appointed by the Employer

FRANK HEENEY, Member
Appointed by Local 1381

Michigan State University
LABOR AND INDUSTRIAL
RELATIONS LIBRARY

SUPPLEMENTAL OPINION AND AWARD PURSUANT TO ACT 312

This matter has been referred to the panel on a specific remand from the Circuit Court for the County of Macomb, the Honorable James C. Daner presiding. The scope of the remand is defined and outlined in an Order of May 8, 1981, which was entered in open Court by Judge Daner and it is as follows:

"It is further ordered that the question of whether or not the Act 312 panel award regarding minimum man power (which is implemented according to the terms of this Order) will be interpreted to count probationary employees toward the total manning requirement, shall be remanded to the arbitration panel solely for the resolution of this question."

In responding to the Order of Remand the panel finds as a fact that it was not the intention of a majority of the panel to purely count bodies, but to consider that a minimum manning order that does not recognize the safety provisions under which it was originally mandated would be a nullity and would be a charade on the arbitration process. A majority of the panel is of the opinion that the minimum manning should include the requisite number of members of the department

Michigan State University
LABOR AND INDUSTRIAL
RELATIONS LIBRARY

This document paid for with State funds

Clinton Township

who are, by way of experience, and/or training qualified to fulfill the role of a firefighter, even though some other legal standard may mandate the continuation of probation and the continuation of performance over a stated period of time.

In determining what is appropriate and proper under the circumstances this panel has considered the probationary requirement of Act 78 of the Public Acts of 1935, MCLA 38.501 et seq., as well as the subsequently adopted mandates of the Michigan Occupational Safety Act with regard to the appropriateness of persons engaging in the profession or occupation of firefighting. The panel has likewise considered the Michigan Firefighters Training Act, being Act 291 of the Public Acts of 1966, MCLA 29.361, and the lack of standards adopted formally under that act. This panel has also considered that the majority of departments that were used as comparables mandate a minimum of 240 hours of classroom and practical training as a prerequisite to the completion of probation within the respective departments. Under the circumstances, and by applying the several criteria appearing in Section 9 of the Public Employees Labor Relations Act, the panel has concluded:

1. That no severe economic dislocation will result to the community by the implementation of the within award.
2. That it is consistent with the pattern and practice of the majority of communities which are comparable in the area.
3. That there is reasonable credible evidence from which it can be deduced or inferred, that the safety interests of the community and the firefighters will be preserved by the implementation of the within award.
4. That there are other statutes, the consideration of which is mandated by Section 9, these statutes being Act 78, The Michigan Occupational Safety and

Health Act and the Firefighters Training Act. Accordingly, the panel finds: ¹

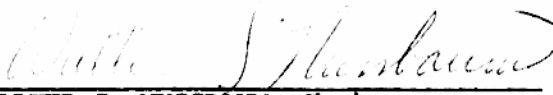
- A. That an employee may be counted under the manning provisions of the award at such time as he has completed the six month probationary period mandated by Act 79 of the Public Acts of 1935, as amended; or
- B. That the employee may be counted under the manning provisions of the award at such time as he has concluded a 240 hour basic training program as actually given at any of the following installations.
 - 1. University of Michigan Basic Fire Fighters Training Program.
 - 2. The Cooperative Cities and Communities Basic Fire Fighting Training Program of Macomb County which is frequently described as the Michigan Fire Institution and which represents a cooperative venture of a number of Macomb County Communities, including the City of Mount Clemens.


Completion shall mean successful completion with the issuance of the appropriate certificate therefrom.

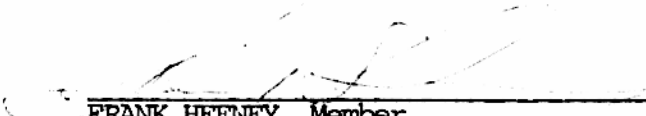
This award specifically does not address itself to, nor does it attempt to arrive at the conclusion that completion of the firefighting training is the equivalent of completion of probation under Act 78, but only that the completion of probation under Act 78 qualifies one to meet the manning requirement, and will to the conclusion of the existing contract, as will satisfactory completion of the 240 hour formalized training program pursuant to the syllabus last used or later adopted by one of the named institutions.

¹ The panel remains constrained by the considerations contained in the Act. (Section 9 Act 312 of the Public Acts of 1969, as amended) It gave serious attention to the conflicting interests involved in having a person still on probation drawing salary for an entire six months together with fringe benefits, who would not be otherwise qualified to be treated as a nonprobationary employee and the combination of salaries and tuitions required to train a person in less than six months. In considering the economic balance the panel is of the opinion that the Township should have the economic choice of paying a man for six months until he meets the requirements of probation or in the alternative, paying the expenses of equivalent formalized structured training and having him available for duty in a shorter period of time with the ultimate savings. That is a decision which should be properly be made by the party that has the economic responsibility for payment.

DATED: August 11, 1981.


WALTER S. NUSSBAUM, Chairman


RICHARD E. ROSIN, Member


FRANK HEENEY, Member

This document paid for with State funds