

IN THE MATTER OF FACT FINDING BETWEEN THE

MONROE COUNTY ROAD COMMISSION AND

UTILITY WORKERS UNION OF AMERICA

LOCAL 543, AFL-CIO

Leonard Neldman

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BACKGROUND

The Monroe County Road Commission and the Monroe County Roadworkers Union (now merged with the Utility Workers Union of America, Local 543, AFL-CIO) had a long standing collective bargaining history. The parties bargained to an impasse on June 30, 1980 at the expiration of the 1977-78-79 labor contract.

Although aided by State Mediator Badoud at three meetings, the parties deadlocked on three issues. ^{1/}

- A. EMERGENCY OVERTIME PROCEDURES
- B. LAYOFF AND RECALL PROVISIONS
- C. WAGES AND COST-OF-LIVING

At the hearing at bar were the following appearances:

Road Commission

Charles Minner, Labor Consultant
Fred Elwood, Managing Director
Morris Tubbs, Safety Director

Union

Thomas Ready, Attorney
Raymond Coss, President
Bryan Simmons, Secretary
Laverne Curley, Jr. Chief Steward
Thomas Wojtala, International Representative
Mike Beazele, Treasurer

1. The submission to fact finding was extended to the three issues although the State Mediator felt that the sole issue was wages and cost-of-living.

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Monroe County Road Commission

A.

EMERGENCY OVERTIME PROCEDURES

The parties after a review of their positions are not far apart on the Emergency Overtime Procedures.

Of course, the public's need to clear roads during inclement winter weather is the paramount consideration. Both parties agree to this.

It was agreed by both sides that in the past the usual procedures were based upon a listing of those employees who desired overtime work on a voluntary basis — and this worked.

The fact finder is satisfied that the past practice is one which will carry out both the public's needs and the desires of the parties.

Based on the above, the following is recommended.

RECOMMENDATION

The following combined provisions are as follows:

Snow Removal and Emergencies

Required snow removal and emergencies shall be handled in the following manner:

1. (a) From 5:00 a.m. to 4:00 p.m. when overtime is required, truck drivers shall be called upon in the order of their seniority.

(b) If additional personnel are necessary, they shall be called upon in the order of seniority to work such overtime, provided such individual is able to perform the work required.

Call-ins for overtime shall be handled as follows:

2. (a) A predetermined list of employees willing and able to perform night snow removal shall be maintained. Call-ins for overtime

from the list shall be made on a rotating basis with as many calls made as may be necessary to acquire the needed personnel. There need be no effort made to distribute overtime evenly; the only requirement being that calls be made from the list on a rotating basis — whether or not the employee is reached.

(b) An employee may remove himself from the list only for good cause with two weeks' notice to the Director.

(c) When call-ins occur and the list has been exhausted during any emergency, work will be assigned to the least senior employees able to perform the work and employees so notified shall be required to work.

(d) Failure to respond to proper calls shall be a violation of Group II (d) penalties.

B.

LAYOFF AND RECALL

The parties are far apart on this provision.

The Union desires layoffs to be based upon strict seniority with bumping allowed in order to effectuate this purpose.

The Employer desires a strict classification seniority which requires the least senior employee to be laid off first and be the last to be recalled in his classification.

It should be noted that both parties in their proposals to each other on this question eliminated the "district" seniority referred to in the Collective Bargaining Agreement. (Sec. 6, P. 10)

However, the Employer has argued for a classification seniority but it is evident that there is some confusion. The last effective contract

at Page 38 lists a great number of job classifications. Since its present unit is about 85 in number, it would seem that there are only one or two in each job classification. To limit a long time seniority employee to his own classification when there are several dozen jobs of approximately equal rating which he could probably perform with ability would not serve to perform an equitable function. In point of fact, the parties would probably agree to this general principle.

Since it is not possible to make a finding of more than general intent, I do find that the seniority principle is within the purview of the intent of both parties.

RECOMMENDATION

I, therefore, recommend that the principle of strict seniority prevail with the proviso that an employee before bumping downwards must have the ability to fill the position without additional training.

The recommended clause would be as follows:

Section 6. Layoff and Recalls will be based upon seniority within classifications. The employee with the least seniority in the classification in which the reduction of work occurs, will be laid off first. Any employee laid off from his classification must first exercise his seniority to displace the least senior employee in an equal rated classification on a County-wide basis and must accept same in the District where it exists, provided he is capable of performing the work required without additional training. If no position is open to him on this basis, he must then displace the least senior employee in a lower rated classification on a County-wide basis and must accept same in the District where it exists, provided he is capable of performing the work required. The Employer shall be the sole judge as to the ability of the employee. Employees displaced under this procedure may, likewise, displace other employees on the same basis.

(a) Employees who exercise their seniority under this Section will be paid at the rate of the classification to which they are so assigned.

(b) In the event an employee who is assigned to a specific piece of equipment as the result of a bid is laid off from his classification due to the elimination of such equipment or classification, his rate on said equipment or classification will be continued for a period of two (2) weeks from date of such layoff. During said period, said employee may be assigned to any work available and may bid on any vacancy which occurs but, if he does not bid, he will after expiration of said period, be paid at the rate of the lower classification.

C.

WAGES AND COST-OF-LIVING

It would serve no useful purpose to reiterate the arguments raised by the parties in regard to wages and the cost-of-living.

There can be little doubt that all of the witnesses presented truthful statements as to the facts — from their own point of view. That the Road Commission faces money shortage is too clear to require lengthy comment. The exhibits and the testimony of Mr. Elwood and the clear exposition by Mr. Minner set forth clearly the problems envisioned by the cash drain. And this is a problem of all municipality, commission, county, state and federal governmental units. The post hearing briefs delivered to the fact finder express as clearly as can be that there is not much money left and we will not belabor that point. Nor is the prospect great for future increases. Yet it is clear that the Monroe County Road Commission is in better financial condition than many others around this state.

What raises a perplexing problem is the fact that the Road Commission did make an offer as of June 1980 of 27¢ per hour plus a 9 1/2 percent across-the-board increase. And to make this matter even more complex — another Union group was given just that increase in June of 1980. It is not too difficult to visualize that this was the actual contemplation of the Employer before he withdrew the offer.

That the cost-of-living was the stumbling block seems obvious (and not unreasonably) because the unknown increases because of inflation could have sorely taxed an Employer who is faced with a limited budget and who cannot pass on the increases to a consumer.

One fact does loom large in this fact finder's mind. There were no work stoppages by the Union. They did perform their duty as required by law. Now it is not seemly to make much of the performance of duties required by law. However, it has been so forcefully and discouragingly brought to the public's attention that public service Unions have callously disregarded legal requirements that it is refreshing to discover a Union which has fulfilled its legal obligations. And there was no evidence to the contrary even suggesting such. All too often Union threats of work stoppages at inconvenient times have forced municipalities to bow to unreasonable demands. This was not the case here, indicating a past history of amicable labor relationships.

It was noted that the offer of 27¢ and 9 1/2 percent was made and unfortunately for all parties this was not consummated. But it was offered and not turned down by the membership — but by the bargaining committee. It is possible that the membership would have accepted had it been presented and it is difficult to penalize them for the actions of a few.

As to the 7 percent across-the-board for the second year of the contract, we find that this is not unreasonable in light of the fact that cost-of-living increases are higher.

I find that the offers were made as set forth above and they were withdrawn before action was taken by the Union to accept.

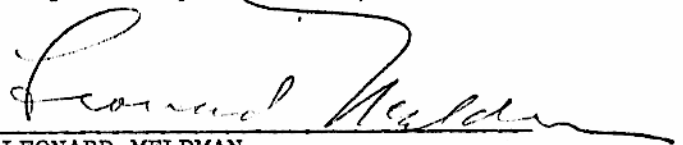
RECOMMENDATION

In light of the above and the fact that the Road Commission would be in no worse position now than it would have been if its offer were accepted, I recommend that the Union be given a 27¢ plus 9 1/2 percent raise retroactively to June 1980 (without a cost-of-living provision).

I also recommend that as of July 1, 1981 (retroactively), the Union be granted a 7 percent raise (without a cost-of-living provision).

I recommend that the Union accept a two year contract with the provisions as set forth in the items above.

Respectfully submitted,



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Dated: July 16, 1981