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MICHIGAN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Fact-Finding Between:

SAGINAW COUNTY - SHERIFF'S DEPARTMENT

END

DO. 079 C782

OFFICE AND PROFESSIONAL EMPLOYEES  
INTERNATIONAL UNION, LOCAL 393

Hearing Held January 11, 1980

Before John B. Kiefer, Esq., Fact-Finder  
Appointed by the Michigan Employment  
Relations Commission

Appearances:

For the Union:

Bill Buff, Assistant to President, Local 393

Kathy Balser, Steward

Kiram Grossman, Attorney for Local 393

For the Employer:

James Kelly, Sheriff

Donald W. Johnston, County Personnel Director

Leopold P. Barrelio, Attorney for Employer

Saginaw County

BACKGROUND

The Union in this case petitioned for election for a unit which included all Court House employees, as well as employees in the Saginaw County Sheriff Department, who had primarily clerical positions. The employees working in the Sheriff's Department were broken away from the main unit and a separate election was held for those employees. The Court House employee unit, consisting of approximately two hundred (200) employees, who work in the administrative offices of the County of Saginaw, and who work in the various elected officials' offices; i.e., County Treasurer, Drain Commissioner, Register of Deeds, County Clerk and Prosecuting Attorney; employees of the Tenth Judicial Circuit, employees of the 70th District Court, and employees of the Saginaw Probate Court who work at the Court House, made up the one unit; and a much smaller unit of approximately eighteen (18) employees who work in the office of the Saginaw County Sheriff comprised the other unit.

The Court House unit settled their contract with the various employers in November of 1979. The contract was retroactive to January 1, 1979.

The economic settlement was:

Six Per Cent (.6%) commencing January 1, 1979;  
Six and One Half Per Cent (6-1/2%) commencing  
January 1, 1980; and

Seven Per Cent (7%) commencing January 1, 1981.

In addition, commencing January 1, 1980, the employees would receive longevity pay in accordance with Article XXI, pages 39 and 40 of the Contract.

The Court House employee unit also accepted a modified arbitration procedure, as is set forth in Article V, pages 10 through 15 of the Contract, and Article A, pages A-1 through A-6 of the Addendum contained in the Contract.

The unit of employees who worked in the office of the Saginaw County Sheriff were offered the identical Contract. The Union advised that the Sheriff Department unit rejected the proposed Contract on two occasions and the Union requested fact finding.

The Union made the following two demands as departures from the Contract ratified by the Court House employees:

1. Pay increases of Nine Per Cent (.9%) for 1979, Ten Per Cent (10%) for 1980 and Ten Per Cent (10%) for 1981.
2. Final and binding arbitration by an independent arbitrator, rather than an advisory opinion from a "pool" of judges selected by the parties.

#### ISSUES

The two issues presented by the parties themselves for fact finding are:

1. SHOULD THE SO-CALLED "SHERIFF DEPARTMENT UNIT" EMPLOYEES RECEIVE PAY INCREASES OF NINE PER CENT (.9%) FOR 1979, TEN PER CENT (10%) FOR 1980, and TEN PER CENT (10%) FOR 1981?

2. SHOULD THE SO-CALLED 'SHERIFF DEPARTMENT UNIT' EMPLOYEES HAVE FINAL AND BINDING ARBITRATION OR AN INDEPENDENT ARBITRATOR?

FINDINGS OF FACT AND RECOMMENDATIONS

1. Testimony adduced and exhibits admitted at the hearing on this matter disclosed that all of the Union Contracts negotiated by the County of Saginaw in 1978, resulted in pay increases of Six Per Cent (6%) for 1978; Six and One-Half Per Cent (6-1/2%) for 1980, and Seven Per Cent (7%) for 1981. This formula applied to the Court House employees (as mentioned above), as well as the Central Dispatch employees and the employees in the Health Department. A survey of the wage scales for clerical employees in eight counties in Michigan which are comparable in location or size, discloses that the wage rate offered by the Employer in Saginaw compares favorably with those counties.

On the other hand, although the Union does not seriously dispute the foregoing data, it seeks to distinguish the position of the Sheriff employees from the Court House employees on the ground that a larger number of the latter employees are, or will be, eligible for longevity pay than the Sheriff employees. An analysis included in the Union's Memorandum shows that approximately Twenty Eight Per Cent (28%) of the Sheriff employees, compared to Forty Seven Per Cent (47%) of the Court House employees, will receive longevity pay in 1980. In 1981 the percentages will be Forty Four Per Cent (44%) Sheriff employees to Fifty Three Per Cent (53%) Court House employees. The Union argues that the wage "package" for the Sheriff employees is thus less attractive than the one for the Court House employees if the former were restricted to the same basic wage increases as the latter.

In addition, the Union cites cost of living statistics of 13.3% for 1978; pay increases for State of Michigan employees ranging from 6.4% to 10%; and Council on Wage and Price Stability recommendations of pay increases for the second year of 7.5% to 9.3%.

As forceful as these latter statistics may be, the Fact Finder finds himself undeniably persuaded by the pattern set in 1979 within the County of Saginaw. This is especially true with regard to the contract with the Court House employees so recently negotiated with the same Union. The inflation which blossomed in 1979 and the State of Michigan employee wage increases were just as much a reality to the Court House workers (as well as Central Dispatch and Health Department employees) as they are to the Sheriff employees. And yet, all of these groups accepted the Six Per Cent (6%), Six and One-Half Per Cent (6-1/2%) and Seven Per Cent (7%) increases in contracts negotiated in 1979.

The Fact Finder is not favorably influenced by the Union's argument regarding longevity disparities between the two classes of employees represented by it. He must agree with the Employer's counter-argument that a larger percentage of the Sheriff employees is thus receiving automatic merit increases than those received by the Court House employees. Although the Union's argument is resourceful and imaginative, the Fact Finder must conclude that the percentage of employees benefited by increases, cannot be considered in weighing the equities of comparable pay increases.

Therefore, the Fact Finder recommends that the Sheriff employees be awarded an increase of Six Per Cent (6%) for 1979; Six and one-Half Per Cent (6-1/2%) for 1980 and Seven Per Cent (7%) for 1981. To recommend otherwise would be to establish too great an imbalance between the Sheriff employees and those in the rest of Saginaw County.

2. Turning now to the remaining issue of arbitration, the evidence is clear that the Court House employees and the Employer have recently agreed to a grievance procedure in which the dispute will be heard by an American Arbitration Association Arbitrator whose decision would not be binding. His recommendation could be used as evidence before a Judge selected by the parties. The Judge's decision would be final and binding.

The Employer argues that this procedure is a fair one to both parties since the Judge has the advantage of being familiar with the activities of the Sheriff employees and because a Judge is accustomed to settling disputes. On the other hand, the Union contends that current contracts with two other units within the Sheriff's Department contain final and binding arbitration provisions, as well as the Health Department, Central Dispatch Animal Shelter, Juvenile Home employees and the County nurses. The Union further argues that using a Judge as a final arbitrator cannot be considered as a selection of an umpire who is free from dependence since the County pays approximately one-third (1/3rd) of the Judge's salary.

The Fact Finder believes that the Union's position is the correct one. With the exception of the Court House employees, most other County employees have independent final and binding arbitration. If the Fact Finder is to be consistent with the logic of his recommendations regarding wage increases, wherein he followed the pattern set for the other County employees, he must use as a guide, the procedure applicable to most of the other County units. The Contract with the Court House employees which appears to be unique in the County, was perhaps dictated by the special circumstance of the Judge's being well known to and trusted by the Court House employees. It seems to the Fact Finder that the Judge acting as final arbitrator in a dispute involving a Sheriff employee, would be no more familiar with the practice and procedure in the Sheriff's office than he would in the other departments covered by outside arbitration, such as the Health Department, Animal Shelter, etc.

In addition, although the Fact Finder has every confidence that a Judge selected by the parties would be fair in his or her verdict and uninfluenced by who pays a percentage of his or her salary, a losing employee could easily attribute his loss to such factors. It is important to the grievance procedure that there be no appearance of impropriety or influence entering into an arbitra-

tor's deliberations. The Fact Finder is not unaware of the Sheriff's concern that an elected official have as much control over the office as is possible because an accounting to the electorate must be made. However, the voters are sufficiently sophisticated these days to be aware of grievance procedures and the presence of independent umpires who settle disputes between the elected official and his unionized employees. In addition, the grievance procedure for the Sheriff's other employees already calls for independent final and binding arbitration and the conduct of these law enforcement personnel is much more "visible" to the electorate than the clerical employees.

For these reasons, the Fact Finder recommends that the grievance procedure contain final and binding arbitration with the use of independent arbitrators.

Respectfully submitted,

John B. Kiefer (F-13944)  
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361-3660

Dated: February 22, 1980.