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STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION

TWENTIETH CIRCUIT COURT  
FOR OTTAWA COUNTY,

MERC Case No. L97 I-7003

Employer,

Fact Finder: Jerold Lax

and

OTTAWA COUNTY EMPLOYEES  
ASSOCIATION,

Union.

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Appearances:

For the Employer	-	Norman E. Jabin, Esq.
For the Union	-	Ted Iorio, Esq.

FACT FINDING REPORT

Introduction

This matter involves a dispute between the Employer and Union concerning conditions of employment for some two dozen employees of the Ottawa County Friend of the Court, in eight classifications. The last collective bargaining agreement covering these employees expired December 31, 1996, and the parties have been involved in unsuccessful negotiations toward a new contract since that time. They have sought the recommendations of a fact finder in an effort to arrive at an agreement covering the years 1997, 1998, and 1999.

*Twentieth Circuit Court (Ottawa County)*

The principal contested issues include general wage increases, pension enhancements, and a proposal by the Union that various perceived wage inequities be corrected by adjustments separate from any general wage increases.

With regard to wages, it is the position of the Employer that a cost of living increase of 2.8% be granted for the remainder of 1998, and an increase of 2.7% for 1999; while the Employer acknowledges that a cost of living increase of 2.8% was granted to most county employees in 1997, it is the Employer's view that retroactivity should be denied in this case because the Union has protracted the bargaining process. The Employer's percentage figures are equivalent to the inflation rate used by the State Department of Treasury in calculating millage reduction. The Union proposes increases of 2.8% for 1997, 3% for 1998, and 3% for 1999, which it regards as consistent with national figures for increases in state and local government wages, as reported by the Bureau of National Affairs; it further proposes that for each year, one-half the proposed increase take effect at the beginning of the year, and the remaining half at mid-year.

With regard to pension benefits, each party appears to agree that it would be appropriate for Friend of the Court employees to be provided with benefit program B-2, with a multiplier greater than that in the C-1 program now available to the employees. The parties differ, however, on the question of whether the employees

should make any contribution toward any increased cost of the enhanced benefits, with the Employer contending that such contribution is consistent with a pattern established in other county units and the Union contending that no such pattern exists.

The Union's proposal concerning correction of perceived inequities is based on its comparison of Friend of the Court wage levels with the average of the wages of employees in comparable counties who allegedly perform comparable work. The Employer contends that the Union's statistics do not support its proposal for wage adjustments, although the Employer acknowledges that its own study of comparable counties supports an upward adjustment for employees in the Judicial Clerk II classification.

A hearing in this matter was held at the Ottawa County Building on June 18, 1998, at which the parties introduced testimony and documentary evidence in support of their respective positions. The parties subsequently submitted written briefs, and also submitted further written arguments after review of the initial briefs. Based upon consideration of the testimony, exhibits, and written arguments of the parties, I make the following findings and recommendations.

#### Findings

1. Both parties agree that ability to pay is not an issue, so that this factor is not determinative of the acceptability of either party's position on any issue.

2. With regard to any general wage increase, there appears to be a reasonably clear pattern internally and this data supports the Employer's offer, although the record is less clear with regard to 1999 than with regard to 1997 and 1998. The external data offered by the Union is of a very general nature which makes it difficult to assess comparability of the communities involved, and it is therefore difficult to conclude from this data that a compelling basis exists to deviate from the internal pattern.

3. While the negotiations have been protracted, there is no basis for concluding that the Union has not negotiated in good faith, and therefore no basis for concluding that wage increases should not be fully retroactive.

4. While the record supports the conclusion that the Friend of the Court employees are diligent and productive, the record, with certain exceptions, is not clearly supportive of the proposition that these employees are paid at a rate below that of comparable employees in comparable jurisdictions. Both the data supplied by the Union and the data supplied by the Employer are somewhat deficient in supporting the respective positions of the parties. The Union data (Union Exhibit 8), for example, while covering a broader range of classifications than the Employer's Rye report (Employer Exhibit 13), omits one comparable county (Calhoun) altogether and omits data from several counties for a number of the

classifications. Hence, even if one could argue that the Ottawa County employees were entitled to a special increase if they fell below the average, the available data is inadequate to determine appropriate averages for purposes of comparison. Moreover, the record fails to demonstrate with any clarity that the job descriptions in various classifications in the other counties are comparable to the job descriptions for similarly-named classifications in Ottawa County. If the Union data were adequate to support the Union's proposal, the Rye data would be insufficient to refute the Union's position, since the Rye report deals with only two of the eight relevant classifications.

5. Since both the Union data and the Rye report support the conclusion that the Judicial Clerk II is presently compensated at a level substantially below comparable employees in comparable counties, an upward adjustment in compensation level is appropriate for that classification.

6. While the record is not entirely clear as to a pattern with regard to employee contribution toward improved pension programs, it does appear that some employee contribution is involved for most of the Ottawa County employee groups which participate in pension programs at the B-2 level or above.

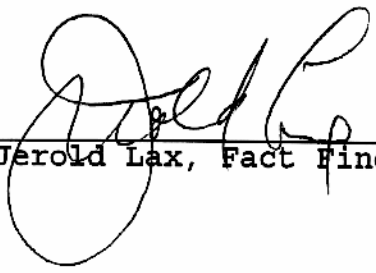
### Recommendations

1. The employees should receive wage increases for 1997, 1998, and 1999 in the respective amounts of 2.8%, 2.8%, and 2.7%, commencing January 1 of the year in question, with full retroactivity.

2. Employees in the Judicial Clerk II classification should be moved from Grade 2 to Grade 3 as of January 1, 1997, and this adjustment should be made prior to the general wage increase recommended above.

3. As of January 1, 1999, the employees should be provided with the B-2 pension program, with an employee contribution to be negotiated by the parties which is reasonably related to the cost of the enhanced program and consistent with the employee contributions by other Ottawa County employee groups which contribute toward the cost of their pension programs.

Date: 9/2/98

  
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Jerold Lax, Fact Finder

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