

1784

FF 5/19/99

STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
FACT FINDING

COUNTY OF ST. CLAIR

and

MERC Case No. D98 C-0425

ST. CLAIR COUNTY PROBATE/
JUVENILE COURT SUPERVISORS ASSN.

_____ /

Report

Thomas L. Gravelle, Fact Finder

May 19, 1999

FINDINGS, OPINION AND RECOMMENDATIONS

The fact finding hearing of this matter was held on April 27, 1999 in Port Huron, Michigan.

Present for the Association were:

Karla Beedon
Roberta Cox
Curt Leahy

Present for the County were:

Grant Nixon
John Dean
Terry Pettee

My findings, opinion and recommendations follow.

St. Clair County

Introduction

The Association represents various supervisory employees in the St. Clair County Circuit Court Family Division and Probate Court.

The parties' 1994-97 collective bargaining agreement expired on December 31, 1997.

Two unresolved issues exist under the parties' negotiations for a new agreement. These are the Association's request for equity adjustments for two positions: Assistant Director of Juvenile Services ("AD"); and Juvenile Register ("JR").

1. The Assistant Director of Juvenile Services ("AD").

The Association's position is that the annual salary of the AD should be compensated annually \$3,000 higher than the Attorney Referee.

The Employer's position is that in addition to across-the-board increases of 2.5% per year the AD should receive a \$2,500 annual premium for his referee services. The premium is to be built into the AD's base salary.

The AD position originated in 1979. Its primary responsibilities now include "intake officer of the Court, Referee duty and supervision of the Juvenile Court staff." (Ass. Ex. 1).

The Juvenile Court also has an Attorney Referee. The Juvenile Court Attorney Referee is an exempt position employed at will by the Probate Court. The position is not covered by a collective bargaining agreement.

The AD "Referee duty includes holding preliminary inquiries/hearings on delinquent and neglect/abuse matters, traffic hearings, pretrials, review and disposition hearings, and other hearings as required by the Family Division Judge." Id.

The current AD is not an attorney.

With respect to Referee duties, the current AD does the same work as the Attorney Referee except for bench trials in neglect cases. The current AD has been "grand-fathered" under current law, which (except for non-lawyers who properly served as referees in the past) requires that one be licensed to practice law to serve as a referee in various delinquency proceedings. (Ass. Ex. 3). The statutory "grandfather" clause does not apply to bench trials of neglect cases (which is why the current AD cannot preside over these).

The AD has broad supervisory and administrative authority over various sections of the County's juvenile services. (Ass. Ex. 1; Emp. Exs. 4 and 5). The AD serves as acting Director of Juvenile Services in the latter's absence. The AD's authority includes assigning cases to the Attorney Referee and authorizing the latter's sick and vacation days. On one occasion, the current AD gave the Attorney Referee a reprimand for poor attendance.

A 10 year survey of the salaries of the AD and the Attorney Referee (Ass. Ex. 4) shows the following: Between January of 1988 and March of 1991, the AD earned more than the Attorney Referee. As of March of 1991, the Attorney Referee earned more than the AD (who hired in at this time). As of February, 1992 the annual salaries of the two were only \$4.00 apart. In September of 1992, the Attorney Referee's salary increased by about 12% over February, 1992. In January of 1996, the (new) Attorney Referee's salary increased by about 11% over January, 1995. Because of these two large increases, the Attorney Referee's salary as of January of 1997 was \$54,451 per year, whereas the AD's salary was \$50,569 per year.

The major increases for the Attorney Referee appear to have been part of a County-wide effort to upgrade the salaries of County Friend of the Court attorneys.

As of 1997, the salary range for the position of AD was \$44,076 to \$50,569 whereas the salary range for Attorney Referee was \$48,406 to \$58,893. (Ass. Ex. 5). An Employer exhibit agrees with these figures except that it lists the entry level of the Attorney Referee salary range as \$35,371. (Emp. Ex. 2).

The current AD is eligible for an annual service recognition (or longevity) payment of \$2,400. (Joint Ex. 1, Article 20). Service recognition pay is not built into base pay. The current Attorney Referee is ineligible for service recognition pay.

The Employer presented evidence of 10 counties comparable to St. Clair County, based on the 1997 Court Employee Compensation Survey, published by the Human Resources Division of the State Court Administrative Office. (Emp. Ex. 1). Of these 10 counties, only one -- Ottawa County -- had both an Assistant Director of Juvenile Services/Referee and a Juvenile Court Attorney Referee. (Emp. Ex. 2, p. 1). While this data is insufficient to draw any meaningful conclusions, it may be noted that in Ottawa County the two positions had identical salary ranges in 1997, i.e., \$39,606 to \$51,122.

In addition, of the 10 counties comparable to St. Clair County, two -- Kalamazoo County and Ottawa County -- had an assistant director of juvenile services (with no explicit referee function). The average salary range for the assistant director in these two counties in 1997 was \$44,789 to \$58,043. (Emp. Ex. 2, p. 1).

In 1998, both the AD and the Attorney Referee will have at least 4 years seniority. Association Exhibit 6 shows that with an agreed upon 2.5% increase for 1998, the base salary of the AD (with at least 4 years seniority and a 2.5% raise in 1998) would be \$51,833.23, whereas the base salary for the Attorney Referee (with 4 years seniority and a 2.5% raise in 1998) will be \$60,365.77. Further, if the Employer's \$2,500 Referee Premium proposal for the AD were adopted, the AD's base salary for 1998 would be \$54,333.23. Another sum to be considered is service recognition (or longevity) pay. The AD (but not the Attorney

Referee) is entitled to it. For 1998, it would be a \$2,400 non-base payment. If this sum were added to the AD's 1998 salary, the sum would be \$56,733.23. This latter sum is \$3,632.54 (or 6%) less than the Attorney Referee's salary for 1998.

The parties have not argued that the Attorney Referee is overpaid.

Therefore, the issue becomes whether (as a matter of equitable compensation on the facts before me) it is equitable for the wages of the current AD to be less than the wages of the Attorney Referee.

For the following reasons, I recommend that the Referee Premium for the AD position be sufficient to provide parity with the Attorney Referee position during the life of the parties' new contract. To illustrate: At 4 years of seniority the Attorney Referee in 1998 would receive a salary of \$60,366, and the AD would receive a salary and service recognition of \$54,233; therefore, to provide parity in 1998, the AD's Referee premium would be the difference, or \$6,133.

First, I think that parity (as explained above) is proper between the two positions of AD and Attorney Referee so long as the AD remains "grandfathered" to perform referee services. These services for the most part are the same as the services performed by the Attorney Referee. The Employer's own proposal of a Referee Premium for the AD position appears to acknowledge that so long as the AD is performing referee services he should be given a premium for doing so.

Second, the AD position is one of greater overall responsibility than that of Attorney Referee. Unlike the Attorney Referee, the AD is responsible for overseeing various sections of the Juvenile Services and also serves as the acting Director of Juvenile Services in the latter's absence.

Third, in several of the years in the 10 year period between 1988 and 1997 the AD either was paid more than, or about the same as, the Attorney Referee. Therefore, there is historical evidence in support of my recommendation.

For these reasons, wage parity between the current AD and the Attorney Referee is justified.

2. The Juvenile Register ("JR").

The Association's position is that the annual salary of the Juvenile Register (JR) should be \$500 less than the annual salary of the Probate Court Reporter.

The Employer's position is that the Association offers no rationale for its proposal and that the current salary range of Juvenile Register is equitable in comparison with comparable communities. Therefore, the JR is not entitled to more than the agreed upon 2.5% annual across the board increases.

The Probate Court Reporter is a bargaining unit position subject to a different collective bargaining agreement than the Juvenile Register.

With 4 years seniority in 1997, the Probate Court Reporter had a salary of \$33,133 whereas the JR had a salary of \$29,154. (Ass. Ex. 9; Emp. Ex. 6).

The Probate Court Reporter must be certified. A Juvenile Register is not similarly certified.

The two jobs are distinct and their functions are difficult to compare.

The Employer presented evidence of 10 counties comparable to St. Clair County, based on the 1997 Court Employee Compensation Survey, published by the Human Resources Division of the State Court Administrative Office. (Emp. Ex. 1). The survey shows that 7 of the 10 counties have a juvenile register whereas only one county has a probate court reporter. (Several counties have probate court recorders; but they are not certified).

The average salary range for the 7 counties with a juvenile register is \$23,716 to \$29,616. The salary range for the St. Clair County Juvenile Register is \$24,914 to \$29,154.

I recommend that the Employer increase its salary range for the JR position to align it with the maximum average salary range for the 7 comparable counties with a juvenile register. This would increase the St. Clair County maximum for the Juvenile Register by \$462 per year. I further recommend that the increase be factored in under the Employer's existing salary range for Juvenile Reporter from its base of \$24,914 to the maximum of \$29,616.

My reason for this recommendation is that it is equitable for St. Clair County to pay for the Juvenile Register position the average paid by comparable counties for the same position.

May 19, 1999

Respectfully submitted,

Handwritten signature of Thomas L. Gravelle in cursive script.

Thomas L. Gravelle
Fact finder