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ACT 312 STATUTORY ARBITRATION TRIBUNAL

In the matter of arbitration between:

THE CITY OF SOUTHFIELD

-and-

THE POLICE OFFICERS ASSOCIATION OF MICHIGAN
MERC Case No. D93 C-0403

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STATE OF MICHIGAN
EMPLOYMENT RELATIONS COMMISSION
DETROIT OFFICE

HEARING DATES: September 14, 21 & 26, October 21 and December 1, 1994

ARBITRATION PANEL: Richard Potter, Chairperson
Kenneth Grabowski, Union Delegate
Dennis DuBay, Employer Delegate

APPEARANCES:

For the Union:

William F. Birdseye	President, Police Officers Association of Michigan
Marvin Dudzinski	Staff Member, POAM
John Fisher	Officer, Southfield Police Department
Ann Maurer	Economist, POAM
Edward Rigley	Firefighter, Southfield Fire Department
Jerry Stonebreaker	Officer, Southfield Police Department

For the City:

Dennis DuBay	Counsel for the City
Norman Jones	Actuary, Gabriel, Roeder, Smith & Company
Thomas Marsh	Director of Labor Relations, City of Southfield
James Scharret	Director of Financial Services, City of Southfield
Joseph Thomas	Chief of Police, City of Southfield

INTRODUCTION:

This dispute revolves around unresolved issues pertaining to a collective bargaining agreement between the City of Southfield and the Police Officers Association of Michigan representing the officers of the Southfield Police Department.

At the prehearing conference on May 5, 1994, the parties identified the following outstanding issues:

ISSUE	INITIATING PARTY	ECONOMIC (E)/ NON-ECONOMIC (NE)
1. Duration of Contract	Both	NE
2. Wages	Union	E
3. Definition of Final Average Compensation	Union	E
4. Health Insurance for Retirees	Union	E
5. Number of Specialist Positions	Union	E
6. Vacation Accrual for Hirees after 9/93	City	E
7. Accrual of Vacation for Employees on Disability	City	NE
8. Maintenance of Discipline Records	City	NE

The parties subsequently held a negotiating session and arrived at agreements on issues 1, 2, 4, 6 & 8, above. Those stipulated agreements appear below and are incorporated into this award. The contract will consist of the remaining issues, which are decided below, the former agreement between the parties, the stipulated agreements and any items previously negotiated by the parties.

STIPULATED AGREEMENT

The City of Southfield and the SPOA agree that the following partial settlement shall constitute and shall be adopted as, a partial stipulated Act 312 Award in MERC Act 312 Case No. D93 C-0403. The parties hereby agree that the partial settlement set forth herein shall be

stipulated to by the parties in the Act 312 arbitration proceeding and shall be adopted by the parties' delegates to the Act 312 arbitration panel. The parties hereby agree as follows:

1. The new collective bargaining agreement shall consist of the parties prior contract (July 1, 1990 through June 30, 1993) as amended by this settlement and the Arbitration Panel's Award.

2. The term of the new agreement shall be July 1, 1993 through June 30, 1996.

3. Revise Appendix "A" Annual Wages, Rates and Increment Steps as follows:

Effective July 1, 1993: Increase all rate by 4%

Effective July 1, 1994: Increase all rates by 3%

Effective July 1, 1995: Increase all rates by 3%

The new rates shall be paid, including retroactive payments, after the Arbitration Panel's Award has been issued.

4. Revise Article XXX by increasing the cleaning allowance to \$350 per year effective July 1, 1993. The increase shall be paid after the Arbitration Panel's Award has been issued.

5. Revise Article XXXII to provide that:

Effective upon the signing of this Partial Stipulated Award by both parties' delegates, for all retirements occurring after this date, in computing final average compensation for pension, retroactive payments shall be distributed over the time the payments were earned.

6. Revise Article XXV to provide that:

Effective upon the signing of this Partial Stipulated Award by both parties' delegates, for employees who retired or retire after 7/1/93 the health insurance coverage shall include dependents of retired members through age 19 and, if full-time students through age 25. Coverage for these dependents shall be based on the same criteria and conditions as dependents of active employees. Coverage shall begin upon completion of the enrollment procedures and shall apply to claims occurring after enrollment.

7. Revise Article XI to provide that:

Effective upon the signing of this Partial Stipulated Award by both parties' delegates, for employees who are hired after this date, vacation leave credits are earned at the rate of 6.66 hours per month for a total of 80 hours per year until employees have completed three years of service. No vacations will be granted during the first six months of probationary period although credits will be earned.

8. The parties agree that the following unresolved issues remain for determination by the Arbitration Panel, all other issues having been settled or waived.

Union: Pension - AFC definition

Specialist Positions - number

City: Remove the 1 year limitation of maintaining a record of discipline.

Section 28.9b.2.: Delete (4) & (5) Banks would be paid at time of disability retirement or as otherwise provided in the contract.

COMPARABLE JURISDICTIONS

Following the prehearing conference, the parties submitted lists of comparable jurisdictions as follows:

TABLE 1

Proposed Comparables

<u>Union Offered Comparables</u>	<u>Employer Offered Comparables</u>
1. Bloomfield Township	1. Bloomfield Township
2. Dearborn	2. Dearborn
3. Dearborn Heights	3. Dearborn Heights
4. Farmington Hills	4. Farmington Hills
5. Pontiac	5. Pontiac
6. Redford Township	6. Redford Township
7. Royal Oak	7. Royal Oak
8. Troy	8. Troy
9. Waterford Township	9. Waterford Township
10. West Bloomfield Township	10. West Bloomfield Township
11. Westland	11. Westland
12. Livonia	12. Birmingham
13. Sterling Heights	13. Canton Township
14. Warren	14. Clinton Township
	15. Ferndale
	16. Hazel Park
	17. Madison Heights
	18. Roseville
	19. St. Clair Shores
	20. Taylor

The panel chairperson determined that the first eleven jurisdictions, which were common to both lists, would be sufficient. Subsequently, Pontiac was eliminated because of lack of information, leaving a total of ten comparables.

FINAL AVERAGE COMPENSATION:

The Union seeks an improvement in the pension provided officers by the inclusion of an amount equal to 50% of an officer's accumulated sick leave, up to 500 hours, in the calculation of Final Average Compensation (FAC). The Employer's position is to retain the current method of calculating FAC.

The practical effect of this proposal is to raise the final year's compensation, which in turn will raise the FAC by \$1.00 for every \$3.00, since the average of the last three years is used to determine the FAC. Had this provision been in effect during the 1992-93 fiscal year, the average retiree could have added as much as \$3,200.00 to his or her FAC. If implemented, this provision would translate into a 6.85% increase in the pension benefit.

Neither party provided information as to the number of hours of sick leave with which officers normally retire and there was some discussion at the hearing about projecting what the probable numbers of hours of sick leave an officer might have at retirement. As Norman Jones, an actuary from Gabriel, Roeder, Smith, pointed out, however, given the incentive of a payoff for the officer during every year of retirement, the tendency would be for officers to attempt to accumulate as many hours as possible, and probably the maximum.

The Union Position:

The Union makes two arguments for this improvement. The first is that this addition to FAC is already provided for administrative officers of the Southfield Police Department specifically, for the Chief and Deputy Chiefs. By implication, the Union states that if such a provision is permissible for the administrative officers, it should also be available to the other uniformed members of the department.

Secondly, the Union contends this provision will help to bring the department in line with the retirement programs of the comparable communities. Indeed there was considerable disagreement about the retirement benefits received by officers in the various communities. For the most part, the disagreement centered on how Social Security Insurance (SSI) benefits were treated. Six of the communities' police departments (Dearborn, Dearborn Heights, Farmington Hills, Redford Township, Troy and Waterford Township) are in the SSI system, while the remaining three and the Southfield departments have opted out. The Union contends that any comparison of retirement benefits must include SSI benefits as well as the basic retirement benefit. Additionally, several of the communities that have opted out of social security have established COLA clauses or other methods by which pensions escalate over time. The COLA provisions differ and include West Bloomfield Township's employer-paid defined contribution supplement and a COLA provision, as well as Bloomfield Township's escalating COLA provision and Dearborn's one time flat increase after age 65. These factors, the Union contends, dramatically reduce what first appears to be a significant advantage for Southfield Police. These escalator clauses and the addition for social security are reflected in

Table 2, below. It reflects that the Southfield Department, which has the second highest retirement benefit initially, drops to seventh position at age 52 and retains that position thereafter. Moreover, the difference in dollars is even more significant. Whereas the Southfield officer retires at approximately \$14,200 less than the first placed community, or at 70% of the West Bloomfield officer's first year benefit at age 55, that disparity has grown to \$26,400 and only 55% by age 75. Thus the need for an improvement in the FAC to partially boost the Southfield officers' benefit, which remains constant throughout retirement.

TABLE 2

PENSION BENEFITS AT VARIOUS AGES

Community	Age 55	Rank	Age 62	Rank	Age 75	Rank
Southfield	\$32,716	2	\$32,716	7	\$32,716	7
Bloomfield Township	\$24,346	9	\$26,050	9	\$29,215	9
Dearborn	\$24,356	8	\$24,356	10	\$29,227	8
Dearborn Heights	\$28,104	5	\$43,344	3	\$50,484	2
Farmington Hills	\$21,786	10	\$37,026	6	\$44,167	6
Redford Township	\$29,564	3	\$44,804	2	\$51,944	3
Royal Oak	\$26,190	6	\$26,190	8	\$26,190	10
Troy	\$28,200	4	\$37,800	5	\$44,940	5
Waterford Township	\$24,716	7	\$39,881	4	\$47,022	4
West Bloomfield	\$46,953	1	\$52,614	1	\$59,143	1

Assumption: Retirement at age 55 with 25 years of service.

Source: Union Exhibit 4

The Employer Position:

As is to be expected, the employer rejects each of these arguments. First, the employer contends the administrative officers and police officers cannot be compared. The police officers are able to earn overtime, which is included in the calculation of FAC. Since

the administrative officers are exempt, they receive no overtime and may not increase their FAC. Therefore the inclusion of a portion of unused sick time is appropriate for them when it is not appropriate for the officers who are able to use overtime in their FAC calculation.

Second, the City disputes the inclusion of SSI benefits into a comparison with other communities, since it points out that those employees have made a contribution to those benefits throughout their working lives. It also states that since Southfield officers are eligible to retire at 50, they have the opportunity to become eligible for SSI through other employment. If a fair comparison is to be made with those departments that are in the social security system, the City contends it should also include what an officer would have available had he or she contributed an amount equal to the employee-paid SSI contribution to a supplemental retirement annuity. City Exhibit 77 shows that an officer who retired in 1994 with 25 years of service could have accumulated \$103,000 by contributing the equivalent of the employee contribution to SSI to a supplemental retirement program. By age 62, assuming a 7.5% return, it would have grown to \$212,371. According to witness Norman Jones, that amount may be converted to a lifetime benefit to the employee of \$1,655 per month or \$19,860 per year, with a 70% continuation for a surviving spouse. When combined with Table 2, above, such a benefit would increase the benefit at age 62 and 75 to \$52,576, and the department ranking to number 2.

When calculating total retirement benefits, the Union calculated them from age 55 and the City from age 50, the first year an officer may retire from Southfield with full benefits.

The age selected is important because it affects the number of years a retiree would receive SSI benefits. The City's choice of age 50 reduces the impact, the Union's choice of 55 increases it. Using the Union's formulation, Southfield's benefit is seventh; using the City's formulation, the Southfield's benefit is fifth. If the supplemental annuity is added, the ranks are 2 and 1, respectively.

The City contends that when one considers the complete retirement package, the Southfield Police Officers' benefit exceeds that of all the comparables. The age and service requirements (20 years at any age) are more liberal than any and the multiplier (2.8%) per year of service is the highest among comparables.

The City also cited the cost of the proposal as a major problem for the City. The City contends that given this incentive, all officers would endeavor to accumulate the maximum allowable sick time (1,500 hours) to maximize their pensions. This would, according to witness Norman Jones, cost the employer an additional 3.6% of payroll or \$215,000 the first year. That cost would increase each year as salaries increase. Using a 20-year amortization, the total cost would be \$4.3 million. The Union suggests that a 30-year amortization could be used which would reduce the first year cost to \$185,000, but increase total cost. The Union also points out that the pension plan is already overfunded and that the overfunded portion could be used to fund the retirement benefit increase. Moreover, it points to the testimony of James Scharret, Director of Financial Services, who testified that pensions of the police and fire departments are funded by a special millage that is adjusted each year to meet actual costs established by actuarial reports. Thus, the Union states, the millage can be adjusted without

taking funds from other departments. When the overfunded position in the pension program considered, which results in a smaller contribution by the City than normally requirement, the additional contribution will be only slightly more than a normal contribution.

DISCUSSION:

It seems appropriate, when discussing the issue of Social Security, to consider both the benefit and the cost to the individual. In other words, if the SSI benefits received by a retiree are to be included with the retiree's basic retirement program when comparing programs that have opted out of the system, the fact the person has paid into the system must also be considered. A reasonable way of doing that is the addition of the supplemental retirement annuity into the equation. When that is done, the Southfield officers' benefit is either first or second among the comparables, depending on the age of retirement, through age 75.

Also, the pension benefit cannot be viewed in isolation. Although wages were not an issue in the instant case, the City provided evidence that the Southfield Police receive the second highest wage of the comparables, which is enhanced by the 4%, 3%, 3% settlement stipulated to by the parties. Thus, there is no evidence the Southfield Police are disadvantaged with regard to other elements of compensation.

With regard to Southfield Firefighters, the FAC of police officers was higher and the firefighters are currently trying to close the gap, so comparably speaking, the police benefit is better.

The overfunded position of the retirement system simply means that in the past the City paid more into the system than actuarially required and not that there is an amount available to

improve the benefit. The amount required to fund retirement will vary because of factors completely outside the control of the City, including the state of the local economy, so the City is probably wise to retain a slightly overfunded position.

In summary, the total retirement program exceeds all (or all but one) comparable communities. No evidence was provided to persuade the panel to increase it even further.

AWARD:

The calculation of Final Average Compensation for Southfield Police Officers remains unchanged. *(Kenneth Grabowski, Union Delegate, dissenting)*

THE NUMBER OF SPECIALIST POSITIONS:

The Union seeks to increase the number of specialist positions in the Southfield Police Department from 15 to 40, the specific assignment of whom is to be made by the Chief of Police. These positions are "extra pay" slots in which officers earn additional pay because of the requirements for specialized training. The City seeks to retain the current number of specialists. Further, at the hearing, the City raised the position that this issue is a permissive or non-mandatory subject of bargaining and thus it raised a threshold issue as to whether it ought to be before the panel at all.

The Union rejects the City's challenge of the panel addressing this issue as untimely. It maintains that the City's failure to challenge the issue on several occasions constitutes a waiver of its right to do so at the hearing.

Specifically, the Union notes it filed a petition for arbitration on or about October 29, 1993. Among the issues listed on the petition was "5. *Specialist Positions -- Number.*"

In its answer to the arbitration petition, dated November 9, 1993, the employer stated:

The City does not object to the statement of the Union's issues insofar as they are the same as the proposals to the City by the Union in contract negotiations and mediation...

The Union's position is that the employer's answer to the Union's position is an express waiver of any right to challenge the jurisdiction of the panel to consider the issue.

The Union also cites the failure of the City to object to MERC by filing motion to prohibit the Union from pursuing the issue in arbitration and its failure to file an unfair labor practice as a second and third waiver of the City's right to challenge on jurisdictional grounds.

Further, the Union notes the City had a fourth opportunity to make its challenge at the prehearing conference on May 11, 1994. As a result, the Union's position is the City, by failing to raise the jurisdictional issue on four occasions has clearly waived its right to challenge the panel's jurisdiction at the hearing.

To buttress its argument, the Union cites County of Wexford, where the Circuit Court found the county could not raise a jurisdictional challenge in arbitration or in a circuit court appeal that it failed to raise prior to the pre-arbitration conference. The Union's brief quotes the following:

Here, the employer, County, waited until after the pre-arbitration conference, a few months after MERC appointed the impartial arbitrator, to raise the issue. Because the issue is a threshold issue to be raised before the commencement of the arbitration proceedings, the County's objection to the eligibility of correction officers/dispatchers and the animal control officers for Act 312 was untimely. (County of Wexford, Court of Appeals No 108033, July 19, 1983)

Decision on the Threshold Issue

The panel accepts the Union position that the employer's challenge is untimely.

(Dennis DuBay, Employer Delegate, dissenting)

The Union Position on the Specialist Issue:

The Union raised the specialist issue at the hearing with the comment that this was a wage issue as it relates to the comparison of police and firefighter wages. It introduced a portion of Charter of the City of Southfield which states at Section 6.20:

(1) Members of the police and fire departments having corresponding classifications, as hereinafter enumerated, and periods of service, shall receive equal annual compensation, including equal annual wages: Police chief, and fire chief; police captain and fire captain; police lieutenant, and fire lieutenant; police sergeant, and fire sergeant; police patrolman and firefighter; and other corresponding classifications of the police and fire departments. No disparity in such annual compensation or wages shall occur or be justified on account of differences between policemen and firemen as to average, normal, regular or customary hours of work or duty, or as to furloughs, leaves or leave days, or vacations; nor on account of the hazards or character of such work or duty; nor on account of changes in the titles of classifications, as hereinabove enumerated; nor indirectly, to avoid the intent of this section, which is to assure parity of compensation and wages to policemen and firemen.

The Union contends that the charter has been violated because the fire department has proportionately more specialists, or extra pay classifications, than the police department.

Thus, the opportunity for higher pay and higher retirement pay is restricted for police officers and they are precluded the extra pay opportunities provided firefighters. Moreover, the Union expressed concern that its members have obtained the additional training and perform the extra-ordinary duties of specialists, but do not receive specialist pay.

Specifically, the Union introduced organization charts showing that there are 39 specialist positions among the 106 firefighters and only 15 among the 119 police officers, or 36.8% and 12.6%, respectively.

With regard to the argument that there were numerous highly trained officers performing specialist duties, the Union introduced training records of a number of officers. Officer Stonebreaker reviewed the records and positions and opined that among the positions that deserved to be specialists were 10 assigned to the traffic division, two assigned to the crime lab, two assigned to the crime prevention bureau, two assigned to the DARE program, two in the detective bureau assigned to traffic theft, one in the auto pound, one in community policing and five in the plain clothes surveillance unit.

The Employer Position:

The City challenges the assertion that firefighters "make more" than police officers and offered the following comparisons:

TABLE 4
COMPARISON OF COMPENSATION FACTORS
POLICE & FIREFIGHTERS -- SOUTHFIELD

FACTOR	POLICE OFFICER	FIREFIGHTER
Hourly Rate	\$19.82	\$14.70
Average 1993 W-2 Payment	\$49,629	\$49,941
FAC 1989-1993 Retirements	\$51,079	\$49,144

The above, the City maintains, demonstrates there is no pay discrepancy between the police and fire departments.

The City also argued that the additional specialist positions were not needed, and cited the testimony of the Chief who stated he neither needed or wanted additional specialist positions. He testified that in the rare instance when a specialist was needed and not available, the Department simply called one in.

The City also cited the high cost of the Union's proposal as a reason to reject it. The City maintains that the Union's proposal would cost \$100,000 in base salaries and \$64,000 in roll-up costs.

Finally, the City points out it already has more specialist positions than the comparable communities. Seven of the ten communities had no specialist position. The remainder had twelve, six and one, respectively.

AWARD:

The panel believes that on the basis of the testimony that perhaps there are some officers in the department who possess as much training as specialists and that some positions which are not designated specialist positions may require equal or greater skill, effort, knowledge and responsibility as some specialist positions. Moreover, it appears that not all the specialist positions in the fire department are as justifiable now as when first created. However, there certainly was not sufficient evidence provided as to determine how many positions should be in the police department.

In regard to the balance of positions between the departments, it seems clear it is the function of emergency medical care that is responsible for the difference. In Southfield that function is assigned to the fire department. To require that a proportionate number of

positions be created in the police department does not make much sense. Finally, the determination of staffing levels, ranks and classification is traditionally a function and right of management. The Union has failed to justify a usurpation of that right. The current language of Section 15.6 shall remain. *(Kenneth Grabowski, Union Delegate, dissenting)*

The fact remains, however, that a problem exists with this issue. For example, the Chief testified that he was unable to fill the position of detective because no one volunteered for it. He stated he may have to reassign the least senior officer to the position. The implication was that if the detective position was a specialist, there would be no shortage of volunteers. However, because the detective position has little opportunity for overtime, it is not certain that making it a specialist position would elicit sufficient volunteers. In any case, it does not appear this is an issue that will be settled in collective bargaining. Perhaps the parties should consider this issue outside the context of bargaining and engage an independent consultant to assist them.

RECORD OF DISCIPLINE:

The City seeks to delete Section 15.6 from the contract. Currently, this provision prohibits a record of discipline from being retained in an officer's record longer than one year from the date of the discipline. The Union seeks to retain current language.

The Employer Position:

The City believes it is unduly restricted in the use of relevant disciplinary information. Testimony of Chief of Police Thomas indicated it was difficult to use progressive discipline when records of discipline were removed so quickly. Alternately, it is difficult to reward

officers for continuous good service when records of discipline are removed. The Chief recounted a situation where he and the Union President met to review an officer's driving record where there was an indication the record was so bad as to be a threat to the officer and others. However, because of the limitation of this section, they were unable to make a reasonable review.

The City also argued that among the comparable communities, Southfield had the most restrictive policy with regard to maintenance of discipline records. The policies of the other counties are summarized in Table 3, and indeed all other jurisdictions either have no provisions for the removal of records of discipline or have a substantially longer period when they can be retained.

**TABLE 3
RETENTION OF DISCIPLINE RECORDS**

Community	Record of Reprimands	Record of Suspension
Bloomfield Township	NR	NR
Dearborn	NR	NR
Dearborn Heights	NR	NR
Farmington Hills	NR	NR
Redford Township	3 years	NR
Royal Oak	1 oral, 2 written	3-7 years (depending on length)
Southfield	1 year	1 year
Troy	15 months-oral; 30 months-written	Permanent

West Bloomfield	NR	NR
Waterford Township	NR	NR
Westland	2 years	NR

NR = No removal provision

The Union Position:

The Union focused on the fact that if the City prevailed, an officer would have a lifelong record of discipline. It pursued this with the Chief who admitted that the City's proposal would allow the City to go back through an entire career of an officer. As a practical matter, the Union admitted that an arbitrator would probably not allow such an occurrence, but it raised the issue that the Union would necessarily be required to address the issue each time it went to arbitration.

Interestingly, the Union seemed to accept the idea that one year was too short, but that the City's position went way too far. It quoted City Counsel DuBay's statement that the City's intent was to allow the department to go back two or three years to see if there was a pattern demonstrated, but then points out that the City's proposal greatly exceeds that intent. The Union concludes that though there is no doubt some middle ground, the employer's proposal goes much too far.

AWARD:

The panel recognizes the one year limitation puts the City at a severe handicap when it attempts to fairly impose discipline and that it effectively renders a progressive discipline policy meaningless. Moreover, such a practice makes it likely that some officers may be unfairly rewarded, to the disadvantage of their colleagues.

At the same time, the panel agrees with the Union that the employer's proposal goes much too far, and far exceeds the expressed intent of the City's Counsel.

This is a non-economic issue and the panel is not confined to simply accepting one or the other parties' position. However, the panel, recognizing that negotiations on the next contract will begin again shortly and being unable to come to a consensus, has determined the contract language shall remain unchanged. *(Dennis DuBay, Employer Delegate, dissenting)*

PAID TIME OFF DURING DISABILITY

The City proposes to delete Sections 4 and 5 from Section 28.9(b)2, which provide that vacation and sick leave continues to accrue and to the maximum amount and is paid at the time disability retirement is converted to normal retirement. The City's proposal is to pay off vacation and sick leave banks at the time of disability retirement and that neither vacation nor sick leave would accrue after that time.

Prior to and during the hearing, the Union's position was that there should be no change in the current language. Therefore, vacation and sick leave would accrue to the maximum allowable and an officer would receive a payout at time of normal retirement. In its final offer, however, the Union changed its position substantially. It proposed that the employer's position with regard to vacation accrual be accepted, but that in order to balance that concession, it proposed that employees on disability receive annual increases as though they were working. Since this proposal was first raised in the union's final offer, there was no bargaining over the proposal and neither party provided evidence concerning it at the hearing.

no bargaining over the proposal and neither party provided evidence concerning it at the hearing.

Although this was initially identified as an economic item, neither party provided any cost data or, for that matter, any evidence of the incidence of disability in the department. It would appear that the savings provided by the City proposal would be the present value of the difference between the maximum allowed accruals of sick leave and vacation and the accruals of the officers at time of disability. The greater the seniority of the officer, undoubtedly the smaller the difference between his or her accrual time and the maximum accruals. On the other hand, if the officer were newly hired when disabled, the present value of full accruals at retirement age would be relatively small. Since these costs were considered to be negligible in either case, the panel determined the issue was to be treated as non-economic.

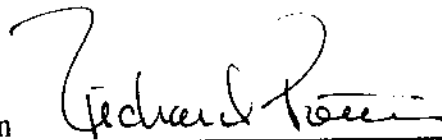
AWARD:

Given that little evidence was provided by either side on this issue and negotiations will begin shortly on the next contract, it was determined this issue is best left to the next contract negotiation.

The language of Section 28.9(b)2 remains unchanged. (*Dennis DuBay, Employer Delegate, dissenting*)

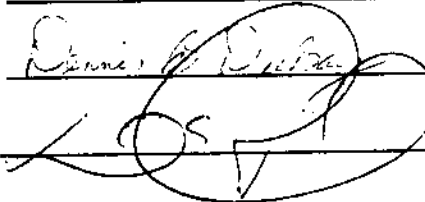
By their signatures, the panel members signify their agreement with this award, except as noted above.

Richard H. Potter, Chairperson



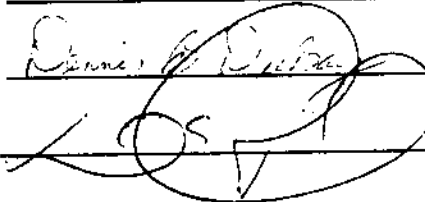
Date 5-25-95

Dennis DuBay, Employer Delegate



Date 6-5-95

Kenneth Grabowski, Union Delegate



Date 6-5-95