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Flint - Board of Commissioners Genesee County

STATE OF MICHIGAN
ARBITRATION UNDER ACT NO. 312

PUBLIC ACTS OF 1969

In the Matter of the Statutory Arbitration between

TEAMSTERS LOCAL 214, STATE, COUNTY
AND MUNICIPAL WORKERS ON BEHALF OF
GENESEE COUNTY SHERIFF'S DEPARTMENT

-and-

INTERIM ORDER

GENESEE COUNTY BOARD OF COMMISSIONERS
FLINT, MICHIGAN

ARBITRATION OPINION

Pursuant to notice duly given, hearing was held February 23, 1973, before a panel consisting of the undersigned as Chairman, Raymond E. Knott, County designated representative, and Paul Gully, Union designated representative.

As a threshold matter and prior to submission of evidence on disputed contractual provisions, the parties indicated the necessity of an interim opinion and order pertaining to the applicability of the 1972 amendments of Act 312, Public Acts of 1969, to the instant arbitration. Argument was presented on the question and the parties stipulated to issuance of a written order by the Chairman.

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Walt, Alan

alone without necessity of further discussion or participation therein by the other panelists.

APPLICABLE STATUTORY PROVISIONS

ISSUE

IS THE INSTANT ARBITRATION SUBJECT TO THE
1972 AMENDMENTS TO ACT 312, PA 1969?

FACTUAL STATEMENT

A collective bargaining agreement between Genesee County and the Fraternal Order of Police expired December 31, 1972. Early in September, 1972, Teamsters Local 214 was certified as the bargaining agent for the Genesee County Sheriff's Department and on October 18, 1972, that Union submitted a list of demands to the County "to be incorporated into [the] Labor Agreement." On November 22, 1972, the parties stipulated that in the event a contract could not be settled by December 31, 1972, the then extant agreement between the Fraternal Order of Police and the County would be extended until such time as agreement was reached, with either party having the right to terminate on one week's written notice. It was further agreed that Teamsters Local 214 would become "the official representative in terms of enforcing the F.O.P.

contract, effective on January 1, 1973." On December 26, 1972, the Union wrote to the Board of Commissioners for the County, copy to the Michigan Employment Relations Commission, requesting arbitration.

On January 3 and 4, 1973, the parties engaged in negotiations with the assistance of a state mediator. Prior to January 12 when the Union indicated its intent "to continue to negotiate its full demands as presented to you", the parties had reached certain tentative agreements on most if not all contractual issues. The Union's desire to negotiate "its full demands" was based upon its "view of the recent decision and elimination of the 'Pay Board Restrictions'". By letter of January 16, 1973, the County designated its representative to the arbitration panel.

ANALYSIS OF THE ISSUE

The County contends that since a valid labor agreement existed between it and another bargaining unit, e.g., the Fraternal Order of Police, through the end of the 1972 calendar year, arbitration proceedings involving Teamsters Local 214 could not legally be initiated until January 1, 1973, or thereafter. Accordingly, the County submits the 1972 amendments to Act 312, Public Acts of 1969, are controlling. In pertinent part, the amendments require "each

of the parties to submit ... its last offer of settlement on each economic issue" and for the panel to "adopt the last offer of settlement which ... more nearly complies with the applicable factors prescribed in section 9." Section 8 further provides that

"This section as amended shall be applicable only to arbitration proceedings initiated under Section 3 on or after January 1, 1973."

The County argues that arbitration could not legally be "initiated" by this Union prior to January 1, 1973 and as a result, the parties are subject to the Section 8 amendment requiring submission of "last offer of settlement on each economic issue." It is the County's position that tentative agreements reached between the parties in early January, 1973, represent such "last offer of settlement" and must be submitted to the panel.

The Union disputes the County's arguments, pointing out it was certified as bargaining agent for this unit in September, 1972, and that it promptly submitted contract demands to the County, without objection. It was legally authorized to, and did, demand arbitration under Act 312 prior to January 1, 1973. There is no statutory restriction proscribing a certified bargaining agent from engaging in collective bargaining or demanding Act 312 arbitration during the term of a labor agreement between an employer and another union.

In examining the 1972 amendments, Section 8 provides, "This section shall be applicable only to arbitration proceedings initiated under Section 3 on or after January 1, 1973" [underscoring added]. Section 3 of Act 312 provides as follows:

Whenever in the course of mediation of a public police or fire department employee's dispute, the dispute has not been resolved to the agreement of both parties within 30 days of the submission of the dispute to mediation and fact-finding, or within such further additional periods to which the parties may agree, the employees or employer may initiate binding arbitration proceedings by prompt request therefor, in writing, to the other, with copy to the labor mediation board.

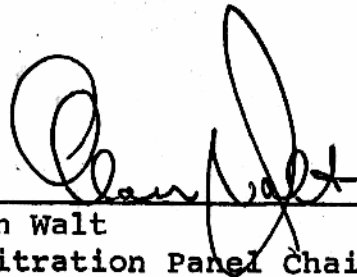
Here, the Union requested arbitration by letter dated December 26, 1972, after having been certified as bargaining agent on or about September 7 and submitting its contract demands to the County on October 18. The County offered no objection to the contract demands; it did not dispute the Union's authority to act on behalf of the bargaining unit. The fact that the parties actively engaged in contract negotiations -- with the assistance of a mediator -- on January 3 and 4, 1973, does not nullify or in any way affect the previously submitted demand for arbitration.

The record establishes that arbitration proceedings were initially instituted pursuant to Act 312, Public Acts of 1969, by

virtue of the Union's letter dated December 26, 1972, and that the provisions of Section 8 of the 1972 amendments to that act are inapplicable to these proceedings.

ORDER

The instant arbitration proceedings were instituted on December 26, 1972, and are not subject to §8 of the 1972 amendments to Act 312, Public Acts of 1969.

A handwritten signature in dark ink, appearing to read 'Alan Walt', is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke at the end.

Alan Walt
Arbitration Panel Chairman

DATED: February 27, 1973