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ARB

STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF ARBITRATION
PURSUANT TO ACT 312 OF 1969,
AS AMENDED, BETWEEN:

CITY OF IRON MOUNTAIN POLICE
DEPARTMENT (City)

-and-

MICHIGAN COUNCIL #25, AFSCME
(Union)

Iron State University
LABOR AND INDUSTRIAL
RELATIONS LIBRARY

Iron Mountain, City of

O P I N I O N

PANEL MEMBERS:

CHAIRMAN:	<u>Mario Chiesa</u>
CITY DELEGATE:	John Badini 104 Fourth Street Iron Mountain, Michigan 49801
UNION DELEGATE:	Michael P. Long 419 S. Washington, Suite 202 Lansing, Michigan 48933

INTRODUCTION

Pursuant to an agreement between the parties, the hearing in the above-mentioned matter was held on February 23 and 24, 1979, at the Iron Mountain City Hall in Iron Mountain, Michigan.

The petition for arbitration filed by the Union indicates that there are approximately 12 employees in this bargaining unit.

The parties mutually waived all of the time limits contained in the statute. Further, the parties agreed that there were no procedural or substantive defects and this matter was properly before the arbitration panel.

The parties also agreed that the new Collective Bargaining Agreement should have a duration of one year commencing on July 1, 1978, and running until June 30, 1979.

Additionally, the parties have agreed that any wage award would be made retroactive to the date of termination of the prior Collective Bargaining Agreement.

The parties also agreed that the total award in this matter shall include the awards issued on issues decided, prior tentative agreements and prior contract language where it is not altered by either the awards in this opinion, or the tentative agreements.

ISSUES

Initially, the parties brought four issues to the panel. However, with some diligent effort on their part, two of the matters were settled and only two issues remain for litigation. The two issues were wages and holidays, both of which were labelled as economic.

SETTLEMENTS AND TENTATIVE AGREEMENTS

The first settlement concerned the issue of clothing allowance. The parties agreed that the language in Article 20, Section 15 should appear as follows:

"Article 20; Section 15. Uniform Allowance: The City shall provide dry cleaning for the employees upon prior approval by the chief of police or a lieutenant in the absence of the chief. The City will continue to make necessary replacements, as has been done in the past."

Regarding the schedule issue, the parties agreed that the language contained in the prior Collective Bargaining Agreement should continue.

Along with the above, there was a number of tentative agreements that will formally be incorporated within this award, along with the settlements listed above and the prior contract language where it has not been changed by the settlements, tentative agreements or awards contained herein.

The first tentative agreements concerns Article 8, Section 1 and appears as follows:

"Article 8, Section 1. The average forty (40) hour work week shall be based on a seven (7) day operation, over a nine week period. (There will be a variance in the starting and quitting time in the seven '7' day operation."

The next tentative agreement concerns Article 8, Section 4, and it states:

"Article 8, Section 4. There shall be no changing of individual work schedules on shifts by the employer, such as shift changes, either to circumvent overtime or changes in agreed upon work schedule, except a change in the overall system, such as an agreed upon work schedule. Employees shall respond to any emergency call."

The last tentative agreement concerns Article 20, Section 11 and appears as follows:

"Article 20, Section 11. All duty positions such as desk duties, reports, radio work, patrol, etc., classified as police work, shall be manned by qualified, trained, and/or schooled police officer personnel."

Finally, while not really a tentative agreement, it should be noted that sergeants received an adjustment in pay on September 18, 1978, which causes their current hourly rate to increase to \$5.35 per hour. The lieutenant classification was created on September 18, 1978, and lieutenants are currently being paid \$5.55 per hour.

COMPARABLE COMMUNITIES

The Union has taken the position that the cities of Kingsford, Norway, Marinette, Wisconsin, Escanaba, Ishpeming, Marquette, Houghton, along with the counties of Houghton, Baraga and Marquette should be considered comparable to the City of Iron Mountain for the purposes of this hearing.

The City has taken the position that the cities of Sault Ste Marie, Niagara, Wisconsin, Iron River, Houghton, Menominee, Ironwood, Negaunee, Stambaugh and Norway should be considered comparab

to the City of Iron Mountain for the purposes of this hearing.

The evidence indicates that the communities listed above by both parties are geographically relevant to the City of Iron Mountain.

The population data that is available presents a rather broad picture.

The City of Stambaugh has a population of approximately 1,400 people. It is much smaller than any of the communities listed above. Thus, the panel is going to reject Stambaugh and not consider it comparable to the City of Iron Mountain for the purposes of this hearing.

In addition, the evidence establishes that Kingsford and Escanaba should be viewed with suspicion. Escanaba has had a public safety department for quite a while and, thus, requires its officers to perform the combined functions of police and fire individuals. The evidence suggests that Kingsford is of the same nature even though the total program has not been implemented.

The evidence further establishes that a public safety officer is responsible for both fire fighting and police duties and, thus, arguably, has more responsibility. Whether this is the case or not it becomes apparent that the duties imposed upon a public safety officer while in some areas are exactly the same, in other areas are substantially different than the duties assumed by a police officer in a regular police department. Thus, the panel is also going to take the position that Kingsford and Escanaba should not be considered comparable to Iron Mountain for the purposes of this hearing.

While the panel will consider the remaining cities and counties comparable to the City of Iron Mountain for the purposes of this hearing, it will also keep in mind some of the differences exhibiting themselves in the area of population. Some of the

cities: Marquette, Sault Ste. Marie and perhaps Menominee and Marinette, Wisconsin, are substantially larger than Iron Mountain while the remaining communities have populations which are similar to or much less than Iron Mountain. While it is impossible to create a precise mathematical formula, even if one were desirable, the differences must be kept in mind when considering the evidence.

Thus, in the final analysis, the panel will review the evidence regarding the wages, hours and conditions of employment that exist in Marquette; Ishpeming; Houghton; Negaunee; Ironwood; Menominee; Marinette, Wisconsin; Sault Ste. Marie; Iron River; Norway; Niagara, Wisconsin; Baraga County; Houghton County and Marquette County.

LAST OFFERS OF SETTLEMENT

The prior Collective Bargaining Agreement provided a salary schedule wherein a top paid patrolman, i.e., one with more than six months service, received \$5.07 per hour. A sergeant received \$5.35 per hour; and a lieutenant received \$5.55 per hour. The lieutenant and sergeant's rate became effective September 18, 1978. Prior to that, a sergeant was receiving \$5.25 per hour and there were no lieutenants.

The Union's last offer of settlement seeks a 15% wage increase for patrolmen with five or more years of service. This would amount to \$5.83 per hour. For patrolmen with under five years of service, the Union is seeking a 14% increase, which would make the hourly rate \$5.78* per hour. The Union is seeking 15% for both sergeants and lieutenants with their respective wage rates ending up at \$6.15 per hour and \$6.38 per hour.

The City's last offer of settlement provides for an 8% increase, which would cause patrolmen to receive \$5.48 per hour, sergeants \$5.78 per hour, and lieutenants \$5.99 per hour.

*Most patrolmen have less than five years service so this figure was used throughout the opinion.

The prior Collective Bargaining Agreement provided seven holidays.

The Union is seeking the addition of the employee's birthday and Easter; thus, increasing the total amount of holidays to nine.

The City's last offer of settlement proposes the continuation of the status quo, i.e., seven holidays.

WAGES - ECONOMIC

DISCUSSION AND FINDINGS

Both parties have emphasized to the panel that the panel should look at all the wages, hours and conditions of employment that exist in Iron Mountain and the comparable communities when the panel considers the two issues presented to a decision. For instance, the Union points out that many communities have a dental plan or COLA, or shift differential, or other things which are not enjoyed by members of this bargaining unit. The City points out that it considers Iron Mountain as providing a better longevity program, sick leave program, vacation program and pension plan than do other comparable communities.

Both parties are using their arguments and data regarding other benefits to support their respective positions on wages and holidays.

An arbitration panel must move very cautiously when it attempts to balance the existence or non-existence of other benefits in determining which final offer of settlement should be accepted for any specific issue. The panel shouldn't approach these types of situations with an unbridled make-right attitude. Often these differences, if they do exist, are the result of a bargaining pattern which was ratified by both the parties. These types of concessions are generally best achieved through negotiations. Whi

in certain cases it may be necessary for a panel to try to alleviate diversities in other areas by perhaps granting a larger wage increase, or a major improvement in another benefit, the panel should approach such problems very carefully. Often a diversity in other areas of benefits is a reflection of the desires of the parties. If this pattern is clearly established, then it becomes more relevant to an arbitration panel.

Nevertheless, keeping in mind the comments stated above, the panel has carefully considered all the data regarding the benefits that exist in the comparable communities and those in Iron Mountain, and has attached thereto the appropriate amount of persuasive power.

The parties introduced wage survey documents and in addition, there were many Collective Bargaining Agreements introduced or in some cases, excerpts containing wage data from many of the other Collective Bargaining Agreements.

The information regarding Marquette indicates that as of 3/3/78, a Marquette patrolman was receiving \$6.98 per hour; a sergeant \$7.81 per hour and a lieutenant \$8.25 per hour. Of all the comparable communities, Marquette paid the second highest patrolman's rate, while it paid the highest sergeant and lieutenant rate.

As of 1/1/78, Ishpeming was paying a patrolman \$7.38 per hour and a sergeant \$7.50 per hour. Ishpeming had the highest rate for patrolman and was third behind Marquette and Marquette County in the sergeant's rate.

The City of Houghton has a salary schedule which lists a starting salary and then provides for additional increases after one year, five years, ten years, fifteen years and twenty years of service. In all fairness, the only figures that would be relevant to this hearing would be the figure listed under "after one

year" and the figure listed "after five years." There are no members of this bargaining unit with the exception of the two lieutenants who have more than ten years of service. As of 7/1/78, the figure for a patrolman with over one year, but less than five years of service is \$5.32 per hour. The figure for a patrolman with over five years, but less than ten years of service, is \$5.53 per hour. A sergeant in Houghton with over one year of service, but less than five, receives \$5.94 per hour, while a sergeant with over five years of service, but less than ten, receives \$6.18 per hour.

As of 1/1/78, a patrolman in Negaunee was receiving \$5.76 per hour, while a sergeant was receiving \$6.00 per hour. Lieutenant were receiving \$6.11 per hour.

The only figure available for Ironwood was the rate for patrolmen for the year 1977-1978. That figure was \$5.17 per hour.

While the effective date is unknown, apparently a patrolman in Menominee is now receiving \$5.57 per hour.

As of 1/1/78, a patrolman in Marinette, Wisconsin was receiving \$5.95 per hour, while a sergeant was receiving \$6.28 per hour.

Employer Exhibit 8 suggests that a patrolman in Sault Ste. Marie would be receiving \$5.58 per hour for 1978-1979, but an examination of the agreement left your chairman with the impression that as of 7/1/78, a patrolman in Sault Ste. Marie was receiving \$6.06 per hour. Again, Employer 8 suggests that a sergeant in Sault Ste. Marie was receiving \$6.46 per hour for 1978-1979, and an examination of the Collective Bargaining Agreement indicates that the \$6.46 per hour figure is correct.

As of 7/1/78, a patrolman in Iron River was receiving \$5.02 per hour and a sergeant was receiving \$5.19 per hour.

A patrolman in Norway, as of 7/1/78, was receiving \$5.41 per hour, while a sergeant was receiving \$5.57 per hour.

As of 1/1/78, three patrolmen employed by the City of Niagara, Wisconsin were receiving \$5.77 per hour, while one patrolman was receiving \$5.95 per hour. Apparently, beginning January 1, 1979, the salary would have been increased to \$6.35 per hour.

The information submitted regarding the County of Baraga indicates that as of 1/1/79, a deputy in Baraga County was receiving \$5.54 per hour.

A deputy in Houghton County, as of 1/1/79, was receiving \$5.41 per hour; a sergeant \$5.56 per hour; and a lieutenant \$5.69 per hour.

In Marquette County, as of 1/1/79, a five-year deputy was receiving \$7.02 per hour, while a similar sergeant was receiving \$7.65 per hour.

In examining the above data, it becomes apparent that for unknown reasons the communities of Marquette, Ishpeming, and Marquette County pay police salaries which are much higher than those paid in the other comparable communities.

If, for a moment, Marquette, Ishpeming and Marquette County are ignored, it becomes apparent that in the patrolman category, the City's last offer of settlement would exceed the per hour rate paid by three communities and the one to five year rate in Houghton, while it would be very close to the five-ten year rate in Houghton; Menominee and Baraga County. The rate offered by the City would be exceeded by the rate paid in six communities, along with the five-ten year rate paid in Houghton. If the Union's last offer of settlement, again for the patrolman category, is compared to the wages paid in the comparable communities, it becomes apparent that if Marquette, Marquette County and Ishpeming are ignored, the Union's proposal is higher than the wage paid in all

the remaining communities, with the exception of Sault Ste. Marie and Marinette, Wisconsin.

In examining the data and applying it to the sergeant's rate, it becomes apparent that again if the three high paying comparables are ignored, the City's last offer of settlement exceeds the sergeant rate in three communities, while it is exceeded by the rate paid in four communities. There was much less evidence available regarding the sergeant's rates; thus, the discrepancy in the total number of figures available. In examining the Union's last offer of settlement, it becomes apparent that again if the high paying communities are ignored, the Union's sergeant rate would be higher than four of the remaining communities, and would be exceeded only by Marinette, Wisconsin, Sault Ste. Marie and the five-ten year rate in Houghton.

In the lieutenant's category, if the three high paying communities are ignored, the City's last offer of settlement would exceed the rate paid in Houghton County, but would be less than the rate paid in Negaunee. The Union's last offer of settlement would exceed Houghton County and Negaunee.

If a rough average is drawn, and Marquette, Marquette County and Ishpeming are included, there is no question that the average figures would show that the Union's last offer of settlement would be more acceptable in all of the categories. If the three high paying communities are ignored, there would be no question that the City's last offer of settlement would be more acceptable.

There was some data available regarding the actual cents per hour increase received by police officers in a portion of the comparable communities between the contract years of 1977-1978 and 1978-1979, or as close thereto as the evidence allowed.

The evidence indicates that a Niagara patrolman received a 43 cent per hour increase. A Baraga County deputy received a 49

cent per hour increase, while a Marquette County deputy received 53 cents per hour and a Marquette County sergeant received 50 cents per hour. A Marinette, Wisconsin patrolman received 44 cents per hour, while a sergeant received 47 cents per hour. A Marquette patrolman received 63 cents per hour; a sergeant 70 cents per hour; and a lieutenant 74 cents per hour. A Norway patrolman and sergeant received 25 cents per hour. An Iron River patrolman and sergeant received 35 cents per hour, while a Sault Ste. Marie patrolman and sergeant received 18 cents per hour. In Negaunee patrolmen received 43 cents per hour, while sergeants and lieutenants received 45 cents per hour. In Houghton County a deputy received 59 cents per hour, while a sergeant received 61 cents per hour and a lieutenant 62 cents per hour.

It must be noted that the above figures were arrived at by examining the contracts which were available, the documents introduced by the parties, and the relevant testimony. They may not be totally accurate, but they are as accurate as the evidence allows. In the omitted communities, the evidence was available, but was so conflicting that a reasonable conclusion couldn't be drawn.

Using all of the data available, including the high paying communities, the average per hour increase works out to be approximately 43 cents per hour for patrolmen, 44 cents per hour for sergeants and 60 cents per hour for lieutenants. Keeping in mind the City's last offer of settlement, equates to 41 cents per hour for patrolmen; 43 cents per hour for sergeants and 44 cents per hour for lieutenants, and the Union's last offer of settlement is 71 cents per hour for patrolmen; 80 cents per hour for sergeants and 83 cents per hour for lieutenants, it becomes readily apparent that when judged by this standard, the City's last offer of settlement is much more acceptable.

While there was no specific data introduced regarding the increase in the CPI, the panel can take notice that the CPI has been increasing at an alarming rate, both in actual points and percentage. The cost of living, as measured by the CPI, 1967 = 100, has been spiraling upwards at a pace which, with only a couple of exceptions, is unprecedented.

Part of the testimony introduced by the Union was directed at establishing the turnover which has recently taken place in the department. The testimony shows that approximately six employees in this unit have recently left the Iron Mountain Police Department to seek other employment. However, the testimony shows that two of the individuals left the department in order to become the chiefs of other departments; one individual left and was elected sheriff with another individual becoming a deputy under the elected sheriff. Another individual left and became an employee in the Oshkosh, Wisconsin Police Department. Oshkosh is much larger than Iron Mountain. The last employee went to Wisconsin Electric. Thus, in carefully considering the turnovers, the panel can only conclude that most of the turnovers were caused by individuals seeking and receiving positions of higher grade or rank than they enjoyed in the Iron Mountain Police Department. Of course, wages were probably a motivating factor.

The testimony develops the proposition that the employees in this unit are mainly concerned with wages and that they feel that a substantial wage increase is necessary because an equity adjustment is clearly required in this matter. In examining all of the evidence, it becomes apparent that the wage rate in Iron Mountain, if the City's last offer of settlement were adopted, would be exceeded by a number of communities, but by the same token, would exceed the wage rates which exist in a few of the comparable communities. It is doubtful whether a large scale equity adjustment is proper under the circumstances.

The testimony establishes that the City of Iron Mountain Police Department handles more complaints than any other department in the county. However, the testimony further establishes that the City of Iron Mountain is the largest city in the county and, thus, it would be expected that its police department would handle more complaints than any other municipality in the county.

There was also evidence introduced regarding the increases that were received by the DPW unit, which is organized by this same union, and the increases received by non-union employees. The Union's evidence seems to establish that the Street Department accepted an 8 percent increase, while certain garbage workers received 9 percent and heavy equipment operators received 10 percent. The City's testimony indicates that all employees, including non-union employees, received an 8 percent wage increase, plus there were two classification changes.

It must be understood that during an exchange between Mr. Hiltunen, Mr. Payant and City witness, Robert O'Donnell, a number of the wage rates of the comparable communities were challenged. For instance, the wage rate regarding Menominee was discussed. It was listed as \$5.57 per hour in the Employer's exhibit. During the exchange, Mr. Hiltunen suggested that the wage rate should be \$6.21 per hour. Yet, the evidence does not allow the panel to draw that conclusion. It was unsettled whether the new wage rate in Menominee was \$6.21. The only accurate figure that was received was the \$5.57 per hour. Thus, that figure was used. Another problem arose regarding the Ironwood figures. The figures that were available regarding Ironwood were effective April 1, 1977. There were no current figures available, even though Mr. Hiltunen indicated that the new wage rate in Ironwood was perhaps \$5.60 per hour. With the diversity of this information, Ironwood was omitted from the calculations. Regarding Negaunee, the figures

used by the panel were taken from the Collective Bargaining Agreement. It is true that Negaunee's agreement terminated on 12/31/78, and the figures used were effective from 1/1/78 to 12/31/78. Figures subsequent to 1/1/79 were not available. Mr. Hiltunen suggested that the new wage rate was \$6.60 per hour. Mr. Hiltunen is probably correct; nevertheless, the figure that existed in the Collective Bargaining Agreement was used for the purposes of this analysis.

The proposition regarding other communities paying a cost of living allowance was previously alluded to, but deserves even further comment. The facts indicate that approximately five of the comparable communities provide a cost of living allowance. In Negaunee the cap on the COLA is eight cents per quarter. In Norway, the COLA is equal to one cent for every point four change in the index after twenty-five cents of the wage increase has been eroded by using the same formula. In Sault Ste. Marie, the COLA provides for a one cent increase for every point four change in the index. Marquette County has a COLA which has a twenty-five cent per year cap. In Ishpeming the COLA provision provides a maximum of a \$40 per month cap. Yet, the one thing that is common to all of these communities is that they are engaged in multi-year Collective Bargaining Agreements. This is not the case in Iron Mountain. In Iron Mountain the parties have apparently agreed to renegotiate their wage schedules and other terms and conditions of employment on a yearly basis.

It must be remembered that Act 312 of Public Acts of 1969, as amended, provides that the arbitration panel must choose the last offer of settlement which is in greater conformity to the evidence. The arbitration panel cannot reject both last offers of settlement and create its own wage award. If it had the power to do so, in this case, the chairman would have rejected both

last offers of settlement and would have adopted one which would have been somewhat less than that offered by the Union and yet greater than that proposed by the City.

In the present situation, your panel is forced to adopt the last offer of settlement proposed by the City.

While perhaps the City's last offer of settlement is deficient, it does conform more closely to the evidence than does the Union's last offer of settlement. The City's last offer of settlement provides for a per hour increase which in actual money terms is much closer to the per hour increase which took place in the comparable communities where the data was available. Additionally, while the wage rate that will exist as a result of the City's last offer of settlement is lower than the average for all of the comparable communities, it must be noted that it is much closer to the average when the three extremely high paying communities are eliminated. The Union's last offer of settlement is only closer to the average when the three higher paying communities are included in the analysis. When they are eliminated, the Union's last offer of settlement is not as acceptable, in terms of average figures, as is the City's.

Further, the Union's argument regarding the existence of COLA in some of the comparable communities, does not carry great weight because all of the comparable communities which pay a cost of living allowance are involved in multi-year agreements. This is not the case in Iron Mountain.

Additionally, the turnover that has taken place in this department was caused by individuals leaving the department, for the most part, to take positions of higher rank.

While the evidence does establish that the pay rates in Iron Mountain are on the low end of the scale, the evidence does not establish that a 14 or 15 percent adjustment is justified.

Regarding the other alleged deficiencies annunciated by the Union, the parties should now be in the process of bargaining over the new Collective Bargaining Agreement. If certain specific deficiencies exist, they can be directly dealt with during the negotiations.

In summary, while the chairman does not feel that the City's last offer of settlement is entirely adequate, it is more acceptable than the last offer of settlement submitted by the Union.

AWARD

The panel orders that the City's last offer of settlement be implemented, retroactive to the date of termination of the prior Collective Bargaining Agreement.

The signature of any panel member means that the panel member concurs with the result, but not necessarily the rationale used to arrive at this award.

CHAIRMAN

CITY DELEGATE

UNION DELEGATE

HOLIDAYS - ECONOMIC

DISCUSSION AND FINDINGS

It should be remembered that the prior Collective Bargaining Agreement provided for seven holidays. The City seeks a continuation of the status quo, while the Union seeks the addition of two holidays, thus, increasing the total to nine holidays.

The evidence regarding this issue was confined to a listing of the number of holidays recognized in the Collective Bargaining Agreements which exist(ed) in the comparable communities.

Where the evidence was available, it indicates that Marquette has nine holidays; Ishpeming - ten; Houghton - eight and one-half, if scheduled, and nine and one-half if an individual actually works Easter; Negaunee - nine; Marinette, Wisconsin - nine; Sault Ste. Marie - nine; Iron River - ten; Norway - nine and one-half and Niagara, Wisconsin - nine.

The evidence clearly establishes that where the data was available, all the comparable communities have Collective Bargaining Agreements which provide for more holidays than does the prior Collective Bargaining Agreement involved herein.

The panel can make no other finding but that in the light of the evidence regarding the comparable communities, seven holidays are totally inadequate.

Thus, the panel must adopt the Union's last offer of settlement.

The parties have agreed that the wage award should be retroactive. There is no reason to deny retroactivity to the holiday award. Retroactivity is necessary in order to adequately implement the provisions of the holiday award.

AWARD

The panel orders that the Union's last offer of settlement be accepted and made retroactive to the termination date of the prior Collective Bargaining Agreement.

The signature of any panel member means that the panel member concurs with the result, but not necessarily the rationale used to arrive at this award.

CHAIRMAN

CITY DELEGATE

UNION DELEGATE

MISCELLANEOUS

The parties have agreed and, thus, the panel will order that the award in this matter include the two previous awards stated, all settlements and TA's annunciated in this opinion, and all prior contract language where same hasn't been modified by the settlements, TA's or awards contained herein.

CHAIRMAN

CITY DELEGATE

UNION DELEGATE

Further, this panel will reserve jurisdiction only for the purpose of clarifying any of the awards contained herein.

Dated: April 6, 1979