

LEONI TOWNSHIP

and

LEONI TOWNSHIP FIRE FIGHTERS
LOCAL 1766

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

ACT 312

CASE L84 G 548

Proceeding in the matter of Leoni Township and the Leoni Township Firefighters before a Michigan Employment Relations Commission, Act 312, Arbitration Panel took place on January 29, 1985 at the offices of Leoni Township, 913 Fifth Street, Michigan Center, Michigan.

Leoni Township was represented by attorney Robert D. Flack, 329 West Franklin, Jackson, Michigan.

Leoni Township Firefighters were represented by attorney Willard F. Rappleye, 511 Jackson Street, Jackson, Michigan.

Joint Exhibit 1 was the only exhibit offered into evidence, no witnesses were presented.

At the opening of the proceedings there were two issues before the panel; (1) Wages, (2) Minimum manpower.

WAGES

The parties have stipulated as to wages " 3% increase retroactive to July 1, 1984 through July 1, 1985 and 3% increase commencing July 1, 1985 through June 30, 1986."

MINIMUM MANPOWER

The previous contracts from November 1981 to the present contract provides the Township shall "maintain 1 fire chief, 1 radio man clerk and 12 firefighters."

The Township requested the Chairperson of the panel rule the panel was without jurisdiction to consider the issue of minimum manpower since such issue is not a mandatory subject of bargaining.

EMPLOYER

The panel is without jurisdiction to consider the issue of minimum manpower since the issue is not a mandatory subject of bargaining.

In the past the Township did not raise the issue of jurisdiction and in the previous Act 312 arbitration minimum manpower was one of the issues decided by the panel. The Township does not waive its right to exclude from the arbitration minimum manpower which is not a mandatory subject of bargaining.

Minimum manpower deals exclusively with the number of employees within the Fire Department. The Township has the authority to determine the total number of employees within the department.

Should the Township decide to layoff firefighters then the impact of that layoff as to how many firefighters are available to fight a fire is a bargainable issue, but bargainable only after the fact.

Minimum manpower is not a mandatory subject of bargaining. The panel is without jurisdiction to consider the number of firefighter the Township should employ. The Township considers that the minimum manpower language is not a part of the contract.

UNION

The Union agrees that minimum manpower standing alone is not a mandatory subject of bargaining. However if the issue of minimum manpower impacts on mandatory subjects of bargaining then it is within the jurisdiction of the panel.

Michigan in Local 1277 of AFSCME vs Center Line 414 Michigan 642: and Alpena vs Alpena Fire Fighters 56 Mich App 568, as well as cases in other states have held that safety is a mandatory subject of bargaining, minimum manpower has an impact on the safety of the firefighters.

The Union will present evidence that a reduction below the minimum manpower in the contract will subject the firefighters to a substantial increase in the hazards of fighting fires. This is a safety factor that is a proper subject before the panel.

If the panel has no authority to deal with the issue then the present manpower provision is carried over into the new contract.

As Chairperson of the arbitration panel, I provisionally ruled ; while the issue of minimum manpower per se may not be a mandatory subject of bargaining, the impact of the minimum manning as it affects safety is a condition of employment and therefore a mandatory subject of bargaining. The panel therefore had jurisdiction.

Representatives of the Township and the Union again addressed the issue of jurisdiction of the panel to rule on minimum manpower and whether such ruling would continue or eliminate the present contract language concerning minimum manpower.

Mr. Rappleye, representing the Union moved to withdrawn the issue of minimum manpower from consideration by the arbitration panel.

Mr. Flack, representing the Township did not object to the motion of withdrawal.

Both parties restated their positions.

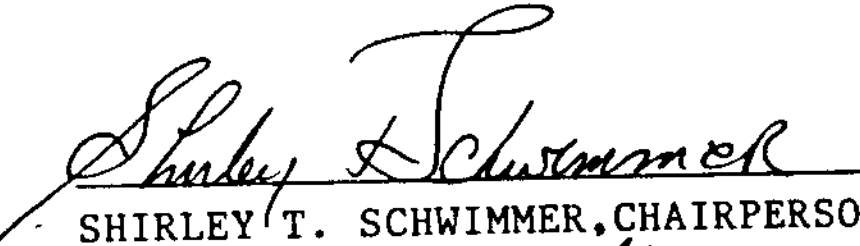
Upon removal by the Union of the issue of minimum manpower with no objection by the Township the arbitration panel is without authority to consider the issue of minimum manpower as to jurisdiction, safety or contract language.

The arbitration panel has jurisdiction to issue an award on wages as stipulated by the parties.


AWARD

The parties, Leoni Township and the Leoni Township Fire Fighters, Local 1766, have as to wages stipulated to the following:

" 3% increase retroactively to July 1,1984 through July 1,1985 and 3% increase commencing July 1,1985 through June 30,1986."


SHIRLEY T. SCHWIMMER, CHAIRPERSON
ARBITRATION PANEL *February 4, 1985*

JAMES PHELPS, EMPLOYER MEMBER
ARBITRATION PANEL


RALPH CASE, UNION MEMBER
ARBITRATION PANEL
Postmarked February 4, 1985