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STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

ARBITRATION PURSUANT TO PA 312 OF
1969, AS AMENDED

IN THE MATTER OF THE ACT 312 ARBITRATION
BETWEEN:

TOWNSHIP OF REDFORD (Employer)

-and-

POLICE OFFICERS ASSOCIATION OF MICHIGAN
(Union)

MERC Case #D91 I-1671

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Redford Township

FINDINGS, OPINION AND ORDER

APPEARANCES:

ARBITRATION PANEL:

Mario Chiesa, Neutral
Chairperson

Howard L. Shifman
Employer Delegate

William F. Birdseye
Union Delegate

FOR THE UNION:

William F. Birdseye
POAM
28815 West Eight Mile Road
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Livonia, MI 48152-2052

FOR THE EMPLOYER:

Howard L. Shifman
Johnson, Rosati, Galica &
Shifman, P.C.
34405 W. 12 Mile Road
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Farmington Hills, MI 48331

INTRODUCTION

The petition in this case was received by MERC on April 28, 1992. The impartial arbitrator/chairperson of the panel was appointed via a letter dated May 29, 1992. A pre-arbitration conference was conducted on October 14, 1992 at the Union's offices in Livonia, Michigan. The hearing was conducted at the Employer's premises on March 10, 1993. The last offers of settlement were exchanged between the parties on May 22, 1993. The parties continued to discuss the matter and an executive session was held on October 1, 1993 at the POAM offices in Livonia, Michigan.

It should be understood that the parties expressly waived all the time limits contained in the statute and in the regulations.

ISSUE

The parties have settled all of the terms of the Collective Bargaining Agreement effective April 1, 1991 to March 31, 1994 with the exception of the layoff procedure which is to appear in Article XLI of the contract. Article 41.4 of the Agreement states:

ARTICLE XLI - CADET DISPATCHER/JAILER

"41.4: The Employer and Union have agreed to submit the layoff procedure contained in section 41.3 of this agreement to Act 312 arbitrator Mario Chiesa for resolution."

Initially the issue was characterized as economic, but then subsequently the parties agreed that for the purposes of this hearing, and this hearing only, the issue should be characterized as non-economic.

The Union's final position reads as follows:

"Layoff

"PRESENT:

ARTICLE XLI CADET DISPATCHER/JAILER

"41.3: Cadet dispatch/jailers shall be the first employees to be laid off.

"UNION'S FINAL OFFER OF SETTLEMENT IN RESPONSE TO EMPLOYER POSITION:

"The Union rejects any changes, additions or deletions to the present contract language or practice regarding this issue, thereby maintaining the status quo."

The Employer's final position reads as follows:

"EMPLOYER PROPOSAL

"(1) Layoffs of police officers will be in accordance with Act 78.

"(2) Police Dispatchers will be laid off in accordance with their seniority with the Department.

"(3) A police officer laid off under (1) above may, at their option, if they have the present ability and qualifications to perform the job, bump the least senior employee in the Police Dispatcher classification if they have more bargaining unit seniority."

DISCUSSION

The evidence at the hearing centered around the provisions in Allen Park, Dearborn Heights, East Detroit, Farmington Hills, Livonia, Madison Heights, Roseville, Southfield and Westland. The record didn't indicate that the parties agreed that these communities were comparable, but nonetheless, the existing conditions regarding this issue were explored in the record.

It appears that Allen Park does employ dispatchers and they are required to be laid off before police officers. Dispatchers

and police officers are in the same unit, but it is noted that the dispatchers in Allen Park are actually cadets. They are police officer/trainees.

Police cadets also dispatch in Dearborn Heights. According to the document in the record, there is no requirement that dispatchers be laid off prior to layoff of police officers.

East Detroit has no dispatchers.

Farmington Hills employs dispatchers, except they are in an entirely separate bargaining unit. There is a separate Collective Bargaining Agreement for dispatchers and it is independent of the contract covering police officers. Apparently there is no requirement that dispatchers be laid off prior to the layoff of police officers.

In Livonia the dispatchers are in the police unit and the layoff of Livonia dispatchers should occur by dispatcher seniority and police seniority. The Employer has the ability to make a determination of which classifications to lay off.

The evidence regarding Madison Heights is inconclusive.

In Roseville a dispatcher is employed, but according to the testimony, is not a true dispatcher in the sense of a 9-1-1 dispatcher. If a call comes in to the desk and the dispatcher picks up the phone, it will be handed to a police officer if the call is for police service. If the dispatcher is on the radio he/she is directed by police officers, so all the decisions are made by police officers.

Southfield has an entirely separate Collective Bargaining Agreement for dispatchers and, thus, is in the same category as Farmington Hills. In Southfield dispatchers are not required to be laid off prior to the layoff of police officers.

In Westland police officers and dispatchers are in the same unit. According to the testimony, Westland does not follow Act 78 and layoffs are by seniority in the police rank and by seniority in the dispatch rank, except dispatchers are laid off first before any police officers are laid off.

As previously indicated, at the conclusion of the hearing the parties continued to work on this matter. Since the issue was subsequently characterized as non-economic, the panel has the authority to fashion a resolution which does not strictly encompass one or the other party's last offer of settlement. The two delegates have worked very diligently and we developed an award which is the unanimous expression of the panel.

AWARD

The parties have submitted a lone issue to the arbitration panel for its consideration. The question posed is the appropriate layoff provision under Article 41 of the Collective Bargaining Agreement. The question involves whether non-police officers in the bargaining unit should all be laid off prior to the layoff of police officers within the bargaining unit. Each side has made

persuasive arguments as to their position. I will outline the decision of the panel below.

The parties agree that this provision has never been utilized. For the foreseeable future, it is difficult to determine whether it will be utilized. The parties' present Collective Bargaining Agreement expires in 1994. It is the belief of the panel that this provision should be negotiated as part of an integrated Collective Bargaining Agreement taking into account the realities in existence at the time a new contract is negotiated. The parties may well be able to reach an agreement on this issue, or alternatively, may submit this issue as part of a dispute submitted to the Act 312 arbitration panel.

In the interim, however, this panel is cognizant of the fact that a dispute over this clause could exist prior to the expiration of this Collective Bargaining Agreement. Accordingly, the panel will retain jurisdiction over this issue should any dispute ever arise over the order of layoff until this Collective Bargaining Agreement expires. Either party may contact the arbitrator to reschedule a hearing to determine the appropriate order of layoff among bargaining unit members and the language to be used during this contract term. It is the hope of the panel that should layoffs, regrettably, be necessary that the parties agree upon the order of layoff. If not, however, either party may again petition the arbitrator for such a hearing.

1st Mario Chiesa
Mario Chiesa, Neutral
Chairperson

1st William F. Birdseye
William F. Birdseye
Union Delegate

1st Howard L. Shifman
Howard L. Shifman
Employer Delegate

Dated: January 14, 1994