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ARB

STATE OF MICHIGAN

DEPARTMENT OF LABOR

EMPLOYMENT RELATIONS COMMISSION

IN THE MATTER OF STATUTORY ARBITRATION
BETWEEN:

CITY OF RIVERVIEW

-and-

POLICE SERGEANTS AND LIEUTENANTS
ASSOCIATION, SEAWAY LODGE 154 F.O.P.

O P I N I O N

PANEL MEMBERS

CHAIRMAN:

Mario Chiesa

CITY DELEGATE:

David Couture

ASSOCIATION DELEGATE:

Robert A. Guiney

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Michigan State University

Submitted: January 31, 1977

INTRODUCTION

Throughout this Opinion the City of Riverview shall be referred to as the City, while the Police Sergeants and Lieutenants Association, Seaway Lodge 154, F.O.P. shall be referred to as the Association.

Pursuant to a stipulation entered into by the parties, the hearing was held on Wednesday, November 3, 1976. The Executive Meeting was held on Tuesday, December 28, 1976. At the Executive Meeting the Chairman of the panel indicated that he would remand the matter for further negotiations for a three-week period. The notice of remand was sent on Wednesday, December 29, 1976. On or about January 19, 1977, the Chairman was advised that this matter was not settled.

APPEARANCES

FOR THE ASSOCIATION

Mr. John A. Lyons, Attorney
1441 East Maple
Troy, Michigan

FOR THE CITY

Mr. Edward D. Callaghan
1623 West Houstonia
Royal Oak, Michigan

ISSUE

There is only one economic issue to be decided. It concerns Article 10, Section 6 of the Collective Bargaining Agreement and will be specifically defined in the next section.

ISSUE:

ARTICLE 10, SECTION 6
ECONOMIC

LAST OFFERS OF SETTLEMENT:

Article 10, Section 6 of the present Collective Bargaining Agreement states:

"Upon retirement, a unit member shall receive in cash a sum equal to all accumulated sick leave at the prevailing hourly rate with the total not to exceed one year.

"In the event of the decrease of the lieutenant, all benefits under this contract which have accrued, shall be paid to the beneficiary designated on the bargaining unit member's insurance policy."

The Association's last offer of settlement is a request for the following language:

"Upon retirement, a bargaining unit member shall receive in cash a sum equal to all accumulated sick leave at the prevailing hourly rate with the total not to exceed one year.

"In the event of the decrease of the bargaining unit member, all benefits under this contract which have accrued, shall be paid to the beneficiary designated on the bargaining unit member(s) policy."

The City's last offer of settlement requests the following language:

"Upon retirement, a lieutenant shall receive in cash a sum equal to all accumulated sick leave at the prevailing hourly rate with the total not to exceed one year of 260 days.

"Sergeants can accumulate up to 120 days of sick leave for retirement purposes. In the event of sickness in the last year of employment before retirement, the time used shall be deducted from the first 120 days. All accumulated time to 120

days on retirement, shall be paid as follows:

One-half (1/2) shall be early retirement with full pay, and one-half (1/2) shall be in cash unless the sergeant requests all sick time up to the 120 days be early retirement. In no instances may the employee demand full pay for sick time upon retirement.

No sick days shall be extended in advance. In the event of the death of a bargaining unit member, all benefits under this contract which have accrued shall be paid to the beneficiary designated on the bargaining unit member's insurance policy."

It should be noted that prior to the current contract, the Sergeants were not a part of this bargaining unit.

ARGUMENT AND EVIDENCE:

The Association has argued that during negotiations the City had agreed to the Union's proposal, but subsequently withdrew its agreement. The City argues that the issue was not properly presented during negotiations because the agreed-to ground rules were not followed.

Association Exhibit 3 establishes the ground rules that were to be followed during the negotiations. The two pertinent sections of that exhibit state:

"(5) Tentative agreements shall be signed off at the time of the agreement by each party initialing the Article.

"(7) The Union shall submit their demands in total on the first day of negotiations. These proposals shall constitute the total of negotiation demands. No new issues shall be raised through or during the negotiation process including mediation and 312 arbitration except by mutual agreement of both parties. Any agreement signed off by both parties shall not be submitted to 312 arbitration."

The testimony of Robert Queen shows that this particular issue was signed off by the parties. Further, his testimony establishes that the City indicated on 6/23/76 that it was not its intention to agree upon the issue (11-12). His testimony also shows that the Association's demand regarding this issue was not made in writing as required by the ground rules (19). City Exhibit 1 is the list of demands presented by the Lieutenant's and Sergeant's Association. The current issue doesn't appear on that document.

The Association argues that it gave up the following demands: increased number of sick days per year, demand for personal leave days, demands on funeral leave, and demands related to dental and optical coverage. It maintains that this "give-up" was in return for the agreement on Article 10, Section 6.

The testimony substantiates the Association's argument (16). However, the record also reflects that subsequent to the withdrawal of the agreement on the herein issue, the other areas were not re-opened and discussed any further (16-17).

The Association argues that by coming into the Lieutenant's unit, from the Patrolmen's unit, the Sergeants lost a four hundred (\$400.00) dollar bonus and the educational incentive that was granted the Patrolmen.

The testimony indicates that after the Sergeants left the Patrolmen's unit, the Patrolmen were granted an educational bonus incentive and a \$400.00 bonus per man (44-45). The record also shows that the Lieutenant's agreement was settled prior to the Patrolmen's agreement (45).

The City has argued that the panel should not adopt the Association's proposal because, inter alia, of the cost involved.

Mr. Paul Kraft, Treasurer of the City of Riverview, testified that the cost of the Association's proposal would exceed the cost of the City's proposal by \$2,604.00 per man (77). He stated that the total cost for the six Sergeants would be a little over \$15,000.00 using current fiscal year monetary value (79). If salaries went up so would the cost (79). Further, Mr. Kraft testified that the cost would be incurred when the man retired. He stated that his cost projection was based on the assumption that every man has reached the maximum accumulation (82). Further, Mr. Kraft testified that he could not establish the cost of the proposal during the life of this agreement (84). Mr. Kraft testified that in the case of a normal retirement, the funds would have to be provided for in the budgeting process. Further, it was stated that for a disability type of retirement, the City would have to "get the contingency" in order to fund it (86).

The City has also argued that with the exception of the Lieutenants all other organized employees receive the same benefit as is offered by the City to the Sergeants.

City Exhibit 6 shows the following:

<u>Name of Unit</u>	<u># of Days Per Year</u>	<u>Max. Accum.</u>	<u># of Days Paid at Retirement*</u>
Office Staff	12	120	120
DPW	12	120	120
Land Preserve	12	120	120
Patrolmen	12	120	120
Administrators	12	120	120

*50% cash; 50% early retirement

An examination of City Exhibit 7, the agreement between the Department of Land Preserve, Local 1590, A.F.S.C.M.E. and the City, shows that there is no mention of the 50/50 split as stated above in City Exhibit 6. City Exhibit 10, the agreement between the City and D.P.W. and Water Treatment Plant, Local 1590, A.F.S.C.M.E., also shows that there is no mention of the 50/50 split as stated above in City Exhibit 6.

Both parties have introduced exhibits showing provisions that exist in cities which they allege are comparable. The Association argues that the City should have included Woodhaven in its Exhibits 5 and 5A, and Taylor among others in Exhibit 5A. The City argues that cities listed in Association Exhibit I are not comparable because they are larger than Riverview.

A summary of the evidence appears as follows:

Association Exhibit I - Patrolmen

<u>City</u>	<u>Max. Accum.</u>	<u>% Ret.</u>	<u>% Death</u>
Allen Park	Unlimited	150 days	100 days
Ecorse	120	100%	100%
Inkster	200	50%	50%
Lincoln Park	Unlimited	0	0
Melvindale	Unlimited	120 days	100%
River Rouge	120	100%	100%
Southgate	200	50%	50%
Taylor	365	50%	100%
Trenton	Unlimited	50%	50%
	(prior to 7/1/70)		
	120 (after 7/1/70)	50%	50%
Wyandotte	Unlimited	75%	75%

City Exhibit 5A - Sergeants & Lieutenants

<u>Police Department</u>	<u>Max. Accum.</u>	<u># of Days Paid at Retirement</u>
Wyandotte	75 (unlimited)*	75
Southgate	200	200
Woodhaven	150	150
Gibraltar	Unlimited	100
Grosse Ile	Unlimited (120)*	60
Trenton Prior to 1970	Unlimited (after 1972 120)* (prior to 1972- unl.)	1/2
After 1970	Unlimited	60
Rockwood	60 (40)*	-0-
Flat Rock	Unlimited (96)*	1/2

*Per attachments to City Exhibit 5A

City Exhibit 4 - Sergeants & Lieutenants
per MML

<u>Name of City</u>	<u># of Days Per Year</u>	<u>Maximum Accum.</u>	<u>% Comp. for Unused Acc. Days</u>	<u># of Days Paid at Retirement</u>
Allen Park	13	120	100	150
Ecorse	12	96	100	120
Flat Rock	12	200	50	48
Gibraltar	18	200	50	100
Inkster	12	200	50	100
Melvindale	12	120	100	120
River Rouge	15	120	100	120
Southgate	15	200	50	100
Wyandotte	12	-0-	-0-	75

Joint Exhibit 3 shows the number of sick days accumulated by each of the Sergeants in the bargaining unit:

	<u>Number of Days to 8/76</u>
A	60 1/2
B	68
C	60
D	57
E	113 1/2
F	175

Joint Exhibit I shows the employment dates for all the Sergeants. The information appears as follows:

	<u>Emp. Date</u>	<u>Emp. Date + 25</u>
A	12/15/55	12/15/80
B	6/14/63	6/14/88
C	3/1/61	3/1/86
D	7/21/66	7/21/91
E	7/1/67	7/1/92
F	7/22/66	7/22/91

DISCUSSION:

Both parties have argued that the other has failed to live up to the written ground rules established April 13, 1976. The Association argues that the City "signed off" this issue and agreed to accept the Association's proposal. The City argues that the Association failed to put its present demand in writing, as required

by the ground rules, and in fact introduced it orally at a bargaining session.

Regarding the "sign off," the City maintains that it was mislead and never had the intention of granting the Sergeants the same benefit that the Lieutenants presently receive.

Frankly, the assertions made by both parties are true. The City did sign off this issue and subsequently retracted its agreement and the Association did not present its proposal in writing as it had agreed to do via the written ground rules. Both parties failed to abide by the written ground rules.

The panel is not going to try to decide which party more grievously ignored the ground rules, but will take the position that since the parties ignored the ground rules, so will the panel.

The Association argues that it gave up a number of other items in order to get the present issue signed off. It maintains that the items that were given up were the quid pro quo for the City's acceptance of the Association's proposal regarding the herein issue. The record shows that after the City retracted its agreement, the Association did not pursue the issues that it had given up. The Association has not persuaded the panel that this particular argument should result in the adoption of the Association's proposal.

The loss of the \$400.00 bonus and education incentive bonus was caused by the Sergeants shifting from one bargaining unit to the other. It was the result of unavoidable circumstances. However, it is

understandable why the Sergeants would feel short-changed.

The evidence concerning the comparable communities shows that the City's offer compares very favorably with the practices in the communities that are listed in both parties' exhibits. Few, if any, of the communities provide for paid or credited accumulated sick days at retirement on the scale that is proposed by the Association and which is presently being received by the Lieutenants. Also, the evidence shows that the Lieutenants and Sergeants in the comparable communities receive the same number of paid or credited accumulated sick days upon retirement. That is to say that the comparable communities do not discriminate between Lieutenants and Sergeants in the area of paid or credited accumulated sick days upon retirement. Both ranks receive the same amount of days, but few, if any, receive as many as are demanded by the Association.

The evidence also shows that no other organized unit employed by the City, with the exception of the Lieutenants in this unit, receive as many paid or credited accumulated sick days upon retirement as are requested by the Association. In fact, the evidence shows that all other units receive the same number of paid or credited accumulated sick days upon retirement as is currently offered by the City.

Further, the evidence shows that 1980 is the first year in which any member of the Sergeant's group will be eligible for a normal retirement. This contract terminates on June 30, 1979. Hence, this contract will terminate before any member of the Sergeant's unit is eligible for a normal retirement.

Further, there is one other aspect of this case that must be considered. This is the first time that the Sergeants and the Lieutenants have bargained together as a unit. It is doubtful, considering the comparable data, that if the Sergeants and Lieutenants bargained together in the past, that they would be enjoying the benefit that is now available exclusively to Lieutenants.

After analyzing all the evidence, the panel is compelled to reject the Association's proposal at this time. Since this agreement will expire prior to the time any Sergeant becomes eligible for a normal retirement, the parties will have the opportunity to again address this issue prior to the time its provisions will affect any retiring Sergeant. If at that time, conditions have changed, as generally is the case in labor relations, then it may become necessary to afford the Sergeants their current demand in order to insure equitable treatment.

AWARD:

The panel orders that the City's last offer of settlement be adopted.


CHAIRMAN

ASSOCIATION DELEGATE


CITY DELEGATE