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STATE OF MICHIGAN
DEPARTMENT OF LABOR
EMPLOYMENT RELATIONS COMMISSION

In the Matter of Factfinding between

DETROIT BOARD OF EDUCATION

Case No.: D-79-E1299

D-79-F1554

-and-

D-79-F1555

TEAMSTERS LOCAL 214

George Gullen /

FACT FINDER'S REPORT

On October 26, 1979 the undersigned was appointed by the Employment Relations Commission as its Hearing Officer and Agent to conduct a fact finding hearing pursuant to Section 25 of Act 176 of the Public Acts of 1939, as amended, and the Commission's Regulations, and to issue a report with recommendations with respect to the matters in disagreement between the parties.

A prehearing conference was held on November 16, 1979 and hearings were held on November 30, 1979, December 6, 1979 and December 7, 1979 at the Commission Offices in Detroit, Michigan. Appearances were entered as follows:

For the Board of Education:

Lenora Thomas, Director of Labor Relations
Raymond Santangelo, Attorney

For the Teamsters Local 214:

Joe Valenti, President
Howard L. Shifman, Attorney
Jack Ford, Business Agent

Detroit Board of Education

Since May of 1979 the parties have been in the process of negotiating contracts covering three bargaining units:

1. Bus drivers, team leaders and Router-Dispatchers;
2. Warehouse, Site Management and Food Service;
3. Security Officers II and Security Interns.

A number of contract provisions for each unit have been agreed upon by the parties, including wage rates. A number of issues remain unresolved for each.

I. BUS DRIVERS, TEAM LEADERS AND ROUTERS-DISPATCHERS

The last contract negotiated by the parties expired August 31, 1979. Agreement has been reached on all but the following issues for the new contract:

1. Stewards Article
2. Driver's bonus
3. Down time
4. Advance sick time
5. Parity of wages
6. Employee's birthday

The issues will be discussed seriatim.

1. Steward's article:

The parties agree upon the following language for the contract article on stewards:

A. The Board shall recognize a Chief Steward and three Stewards (total of 4) within the bargaining unit. The Chief Steward and one other Steward, will be assigned to one terminal and the remaining 2 Stewards will be assigned to the other terminal.

B. Where necessary, in the interest of maintaining a continuously cooperative relation between the Union and the Board, the Chief Steward and/or the Steward shall be permitted reasonable time to investigate and present grievances, but shall not receive any extra pay from the Board because of the performance of such duties. Whenever possible, meetings and hearings shall be held during regular working hours. Meetings initiated by management will be scheduled during regular working hours unless called as a result of an emergency. The Steward shall, to the extent possible, perform their duties as Stewards without interference with their own job function, or the job functions of other employees. The Stewards shall not leave their job to conduct duties as Stewards without first securing the permission of the immediate superiors. The failure of a superior to grant reasonable time off may be the subject of a grievance.

C. Notwithstanding their position on the seniority list, the Chief Steward and Stewards, in the event of a lay-off of any type, shall be continued at work as long as there is a job in their department which they can perform. The Stewards shall be permanent employees and shall have completed their probationary period in their current position.

D. The Chief Steward and Stewards shall serve on the Safety Committee at their respective terminals: the Chief Steward will serve on each terminal's Safety Committee.

Disagreement exists on contract language in paragraphs E and F. For E., the Board proposes the following:

E. Stewards -- The Chief Steward and Stewards (total of 4) will not have a regularly scheduled route, but will perform regularly assigned duties under the direction of the terminal manager or his/her designee unless assigned to a route as a substitute. Regularly assigned duties would include but not be limited to starting buses, directing bus traffic in the yard, accompanying new drivers on routes, making pre-trip bus checks, collecting and tabulating student load counts. The Chief Steward, only shall be assigned eight hours of work each regular work day, Monday through Friday, and the Three (3) remaining Stewards will be assigned seven and one-half hours. Hours of work will be determined by the terminal manager.

The Union proposal for paragraph E is as follows:

E. The Chief Steward and Stewards (total of 4) will not have a regularly scheduled route, but will perform regularly assigned duties as stand-by drivers under the direction of the terminal manager or his/her designee. The Chief Steward only will be assigned eight hours of work each work day Monday through Friday. The three remaining Stewards will be assigned a minimum of 7½ hours of work each day Monday through Friday. The Chief Steward and Stewards' hours of work shall be the same hours that are performed by the bus drivers outside of the Chief Steward, a Steward who has seniority by pick of route, and if said route pick exceeds the guaranteed 7½ hours of work, said Steward shall receive the greater amount of hours as picked by virtue of his seniority. Stand-by duties shall be as follows:

- (1) Fill route when there is a shortage of drivers.
- (2) Take exchange coaches in the event of breakdowns.
- (3) Fill routes in case of emergency situations and accidents by drivers on the road.
- (4) Breaking in new drivers on routes who are not familiar with the area.

Paragraph E deals with job assignments of Stewards. The parties agree that the Stewards will have no regularly scheduled route but differ essentially on what duties the Stewards will perform and whether or not certain hours of work per weekday will be guaranteed. The Union would have the Stewards work on a stand-by basis on duties listed in its proposal. The Board would have the Stewards working regularly assigned duties including work not provided for in the Union's proposal.

The evidence indicates that there are approximately 400 - unit members working out of two separate terminals. It is important considering the number of unit members per Steward that the Stewards be available when needed to represent the membership and the minimum hours proposed are not unreasonable. On the other hand, there is no showing that the duties need to be restricted to stand-by duties only, and the duties listed by the Board are not extraordinary. If particular functions need doing and the Stewards are available to perform them, there is no reason to limit the duties as proposed.

Recommendation: The following language should be utilized for paragraph E:

"The Chief Steward and Stewards (total of 4) will not have a regularly scheduled route, but will perform regularly assigned duties under the direction of the terminal manager or his/her designee. The Chief Steward only will be assigned eight hours of work each work day Monday through Friday. The three remaining Stewards will be assigned a minimum of 7½ hours of work each day Monday through Friday. The Chief Steward and Stewards' hours of work shall be the same hours that are performed by the bus drivers outside of the Chief Steward, a Steward who has seniority by pick of route, and if said route pick exceeds the guaranteed 7½ hours of work, said Steward shall receive the greater amount of hours as picked by virtue of his seniority. Regularly assigned duties shall include but not be limited to the following:

- 1) Filling route when there is a shortage of drivers;
- 2) Taking exchange coaches in the event of breakdowns;
- 3) Filling routes in case of emergency situations and accidents by drivers on the road;
- 4) Breaking in new drivers on routes with which they are unfamiliar;
- 5) Starting buses
- 6) Directing bus traffic in the yard;
- 7) Accompanying new drivers on routes;
- 8) Making pre-trip bus checks;
- 9) Collecting and tabulating student load counts."

For paragraph F of the Steward's article, the Board proposes the following:

"F. When management determines that a stand-by driver is required for Saturday, Sunday and Holiday work, Stewards will have first preference as stand-by, beginning with Chief Steward and proceeding to the three (3) remaining Stewards on a rotating basis."

The Union proposes the following for Paragraph F:

"F. Where there is work to be performed on Saturday, Sunday, and Holidays, and there are at least five drivers required to work, a stand-by driver shall be retained. The Chief Steward and Stewards shall be first preference as stand-by drivers. Said stand-by between the Chief Steward and Stewards shall be rotated."

The Union would require a stand-by driver for Saturdays, Sundays and holidays when five or more drivers are required to work. The Board would leave assignment of a stand-by driver for such days up to management discretion. There is no justification for requiring a stand-by

driver as proposed by the Union, especially in light of the substantial additional cost that it would entail.

Recommendation: Adopt Board language proposal.

2. Driver's bonus (coffee break) to be applied to team leader and router-dispatcher.

The parties' last contract was concluded on the basis of language submitted by the parties to arbitration. The resulting agreement included a provision providing bonus payments to reimburse bus drivers, team leaders and router-dispatchers for coffee breaks which they did not receive. The Board would continue in the new contract bonus payments for bus drivers but not for team leaders or router-dispatchers. The Union would retain the bonus payment for all.

The Board agrees that bus drivers should receive the bonus as they are unable to take coffee breaks while on their routes. Since the team leaders and router-dispatchers work all day in the terminals, they are able to take breaks.

The Union contends that if the bonuses are taken away from the team leaders and router-dispatchers, the wage differentials between the classifications would be destroyed.

Testimony indicates that the maximum wage rates for router-dispatchers are higher than that for bus drivers and that the maximum wage rate for team leaders is higher than that for router-dispatchers; thus, a wage rate differential has been established between the classifications. Elimination of the bonuses for the non-drivers would amount to a meaningful decrease in relative compensation, which cannot be ignored.

Recommendation: The parties should either retain the bonuses for all or renegotiate the wage rate differentials and eliminate the bonuses for non-drivers.

3. Down time:

Both parties propose language for a concept which is not provided for in the old contract, called "down time". The Board proposes the following language:

"When management determines that the time between driving assignment is thirty minutes or less, drivers will not be required to punch out from one assignment and remain off the clock until the next driving assignment begins. This shall be for 1979-1980. The Board has agreed the beginning of 1980-1981 to increase Down Time to a maximum of 45 minutes."

The union proposes that down time in the 1979-80 year be 45 minutes and in the 1980-81 year be one hour.

Considering the fact that this provision provides for payment for time not actually worked, that it is new to the contract and considering other benefits received, the Board proposal is most reasonable.

Recommendation: The parties should adopt the Board proposal.

4. Advance sick time:

The old contract provided for sick leave benefits as follows:

"Article XVIII - SICK LEAVE

A. Effective May 9, 1977, all unit employees shall receive at the rate of fifteen (15) days per year, to be earned at the rate of .76 days for each bi-weekly period worked. The number of hours in each sick leave day earned will be equal to the number of hours of work per day assigned to the employee's route during the period that the sick day is earned. Employees covered by this Agreement accrue .076 of a sick day for each day worked or for each day paid. A sick day is equal to the normal daily hours assigned to the employee at the time the sick day is paid.

B. Sick time is accrued only for regular work days - Monday through Friday - of the school year (39 weeks), not on Saturdays, Sundays, during the summer or any other non-working, non-paid days.

C. Effective May 9, 1977, all sick time accumulated through June 16, 1978 will be calculated so that one-half will be paid at the appropriate rate to the employee. One-half will be placed in the employee's illness bank.

D. Effective September 4, 1978, any above accrued illness bank, as well as any currently continuing accrual of sick time will accumulate in the employee's sick bank and be applied in keeping with Detroit Board of Education policies."

The Board proposes to maintain the old system of providing sick leave as it is earned.

The Union proposes that sick leave days be credited to each employee at the start of the work year as was done in the past and is done in Board agreements with other units.

Sick leave days which are credited in advance as opposed to being earned through the year is a system ripe for abuse. The Board submits that the advance sick leave system has in fact been seriously abused. Advance sick leave is not an advisable system and, in fact, the earned sick leave system is reasonable. There is no rational basis for changing the system.

Recommendation: The parties should adopt the Board's proposal.

5. Parity of wages of router-dispatcher with the team leader classification:

The Union proposes parity of wages between the router-dispatcher and team leader classifications. The Board proposes maintaining the existing differentials.

The Union submits that the wage scale for router-dispatchers is lower than that of the team leaders and there is no proper distinction between the duties of the two.

The Board contends that the parity proposal is not called for as the differentiation was created at the insistence of the Union and the duties of the respective classifications have not changed since then.

The evidence indicates that there are distinctions between the duties of the two classifications, with the team leaders fulfilling more of a supervisory role than the router-dispatchers. The differentiation in wages is appropriate and no basis for parity is found.

Recommendation: The parties should maintain the present wage differentiation.

6. Employee's birthday:

The Union proposes that the unit members should receive a holiday on their individual birthdays due to the fact that they now receive 7 1/2 holidays per year as opposed to other Board employees who receive an average of 8 1/2 holidays per year.

The Board proposes that the current holidays be maintained as in the prior contract.

The unit members receive 7 1/2 holidays based on what is essentially a 10 month work year. Other Board employees working a 12 month year receive a holiday on Independence Day as it falls within their work year. Unit members not working during July naturally won't get pay for a holiday falling in July. There is no disparity here and the disruption caused by having to provide substitute drivers on birthdays would be significant. There is no justification for the Union proposal.

Recommendation: The parties should maintain the current practice.

II. SITE MANAGEMENT, WAREHOUSE AND FOOD SERVICE

The last contract entered into between the Board and the Union covering site management, warehouse and food service employees was effective for the period August 25, 1977 through August 24, 1979. Unresolved issues in negotiation of a new agreement are as follows:

1. Subcontracting language
2. Paid vacation time
3. Uniform allowance
4. Tool allowance
5. Mileage reimbursement rate
6. Advance sick time
7. December 24 and December 31 - paid holidays

1. Subcontracting language:

The 1979-79 contract includes the following provision on subcontracting:

"ARTICLE 33 - CONTRACTURAL WORK

A. The right of contracting or sub-contracting is vested in the Board. The right to contract or sub-contract shall not be used for the purpose or intention of undermining the Union nor to discriminate against any of its members, nor shall it result in a reduction of the present work force.

B. When members of the Teamsters bargaining unit in any department or division are laid off, there shall be no sub-contracting by the Detroit Public School Board until all laid off members are assigned or re-assigned in any work classification. This shall also include hiring of any new employee within a classification, part-time employees, and seasonal employees.

C. In cases of contracting or sub-contracting affecting employees covered by this Agreement, the Board will hold advance discussions with the Union prior to letting the contract. The Union representatives will be advised of the nature, scope and approximate days of work to be performed and the reasons (equipment, manpower, etc.) why the Board is contemplating contracting out the work."

The Union proposes retention of the above language while the Board proposes excluding paragraph B.

The Board submits that this language prohibits management from sub-contracting work in one area of responsibility such as site management even when the only unit employees who are laid-off are in a completely different area such as food service. This places greater restrictions on the Board than exist in any other Board labor agreements and, it is argued, is too limiting. An example given was that of emergency snow removal. If there is insufficient manpower and equipment to remove snow in an emergency, school may not be able to open. Under the current language, if a food service employee is on lay-off, the Board cannot hire an outside firm to supply snow removal service even though the laid-off employee is not qualified to operate such equipment.

On the other hand, the Union contends that no problems have in fact arisen under paragraph B and that it would be unfair to the unit members if subcontractors were hired to do work that could be performed by laid-off employees.

It would be unfair to hire outside vehicle operators, for example, if there are other qualified vehicle operators in the unit who are laid-off. However, if the only employees who were laid-off were not vehicle operators and an emergency need for vehicle operators existed, the Board should be able to meet that need on an emergency basis by subcontracting. The wording of paragraph B is ambiguous on what the Board would be able to do in the latter case. Paragraph B should be rewritten to clear up that ambiguity.

Recommendation: Paragraph B should be revised to read as follows:

"When members of the Teamsters bargaining unit in any department or division covered by this Agreement are laid off, the Board shall not engage in subcontracting if there are sufficient laid-off employees in any work classification immediately available, qualified and able to do the required work."

2. Paid vacation time:

The 1977-79 contract provides in Article 29 that all regular twelve month employees covered by the Agreement shall receive vacations with pay, the vacation period depending on the number of years of service. Thus, employees who work less than 12 months have no such benefit although they received paid days off in prior agreements.

During negotiations the Union sought paid days off for the Food Service Vehicle Operators-Stock Handlers and Truck Driver Laborers who are not employed on a 12 month basis.

A tentative agreement was reached by the parties that all affected food service employees would receive an annual \$300 bonus for those working 170 days per year. The provision was not acceptable to the employees due to concern over whether, because of a work stoppage this year, they would be able to work the 170 days. The Board contends that the employees will work at least 170 days this year.

It is evident that there is and has been a recognized benefit for less than 12 month employees in a form such as paid days off in lieu of vacation time. The bonus alternative is an appropriate one.

Recommendation: Provision should be made for payment of an annual bonus check for \$300 to Food Service VOSH and TDL employees who work 170 days each year of the contract. Those working less than 170 days should receive the bonus on a pro-rated basis.

3. Uniform allowance:

The 1977-79 contract provides in Article 45 that if an employee is required to wear a special type of uniform as a condition of his employment, it will be furnished and maintained by the Board.

The Union has demanded that the Board pay a \$200 uniform allowance per year for each employee in certain specified classifications.

The Union submits that in jobs in which the employees work in dirty conditions continually they should be reimbursed for the unusual wear and additional cleaning that results.

The Board maintains that there is no reasonable requirement for it to pay an allowance where no special clothing is required of the employees. Where such is required, the Board already provides for such uniforms and their maintenance.

The evidence shows that when uniforms are required the Board supplies and maintains them. No basis is found for requiring the paying of an allowance such as that demanded by the Union.

Recommendation: The current contract language should be continued and no additional allowance provided for.

4. Tool allowance:

Article 54 of the 1977-79 contract provides that the Board shall furnish tools for certain employees and that employees who are required to carry tools in their private cars shall receive \$25 per month in addition to their regular wages.

The Union demands that the tool allowance be increased to \$37.50 per month. The Board would maintain the current bonus amount.

The evidence indicates that the tool allowance is purely a bonus. The tools are furnished by the Board and the employees are otherwise reimbursed for use of their own automobiles. The bonus is not related to any work or employee cost. No reasonable basis can be found for increasing this allowance.

Recommendation: The current contract language should be retained.

5. Mileage reimbursement rate:

Article 54 of the 1977-79 contract provides that employees who are required to drive their own motor vehicles shall receive fifteen

cents per mile for gas allowance.

The Union demands that the mileage allowance be increased to 17 1/2 cents per mile and that the total mileage per year be unlimited.

The Board submits that it is agreeable to increasing the allowance to 17 cents per mile but with a limitation of 600 miles per year.

The evidence shows that the other Board contracts negotiated provide a 17 cent mileage allowance. While the 1977-79 contract contains no total mileage limitation, it has been the practice of the Board not to make reimbursements in excess of 600 miles per year. No grievances have been filed concerning this particular practice.

Recommendation: The gas allowance should be increased to 17 cents per mile. No recommendation is made on inclusion of a mileage limitation.

6. Advance sick time:

Article 27 of the 1977-79 contract provides for the earning of sick leave at the rate of .65 days each bi-weekly pay period worked with a total of 17 days a year for 12 month employees and 15 days a year at .76 days per bi-weekly period worked for 10 month employees.

The Union demands that the unit employees receive the same advance sick days beginning each fiscal year as other Board employees.

The Board would continue the present language.

As discussed above, the concept of advance sick time is not an appropriate or reasonable alternative to the present system.

Recommendation: The current language should be continued.

7. December 24 and December 31 -- paid holidays:

The 1977-79 contract does not include December 24 or December 31 as paid holidays.

The Union demands that December 24 and December 31 be paid

holidays.

The Board rejects this demand.

The evidence shows that no Board contract provides for holidays or paid days off on December 24 or December 31. The problem here is that some supervisory personnel have in the past allowed employees to leave work early on these days. The Union is demanding that its members get "equal treatment." There is no basis, however, for making these days paid holidays. If there is unequal treatment, management should attempt to enforce a uniform policy. This issue concerns an administrative problem, not a contractual one.

Recommendation: The Union proposal should not be adopted.

III. SECURITY II AND SECURITY INTERN

The last contract negotiated by the parties was effective from October 1, 1977 to September 1979. Negotiations for a new two year agreement have resulted in tentative agreement on wages and certain other provisions. Issues on which agreement has not been reached are as follows:

1. Subcontracting limitation
2. Reduction of number of years to maximum pay rate
3. Work scheduling for Easter, Christmas and summer break periods
4. Shift changes and overtime
5. Revision of grievance and discharge articles
6. Advance sick time
7. Additional \$5,000 life insurance
8. Shift premium pay

1. Subcontracting:

The old contract provides as follows on the subject of contracting (Article VII):

"ARTICLE VII - CONTRACTURAL WORK

- A. The right of contracting or subcontracting is a right of the Board. However, the right to contract or sub-contract shall not be used by the Board for the purpose of (1) undermining the Union, (2) discriminating against any of its members, (3) causing layoffs among the unit members, or (4) denying overtime employment to the members of this bargaining unit.
- B. In cases of contracting or sub-contracting affecting employees covered by this Agreement, the Board will hold advance discussions with the Union prior to letting the contract. The Union representatives will be advised of the nature, scope and approximate days of work to be performed and the reasons (equipment, manpower, etc.) why the Board is contemplating contracting out the work."

The Union proposes the addition of specific limitations on where private guards may be employed:

"Private guards working on subcontractual procedures for the Detroit Board of Education as private guards shall be limited to the following work areas as described:

(a) Bus terminal located on the East side of Detroit at Cadillac and Mack and bus terminal located on the West side of Detroit on Greenfield.

(b) All school buildings where evening adult education classes are located under the jurisdiction of the Detroit Board of Education.

(c) New construction sites."

The Board proposes retaining Article VII as presently written.

The Union acknowledges that there is no extensive problem presently concerning the use of private security guards by the Board, but argues that the Board appears to be expanding the use of such outside services into areas traditionally covered by unit employees. Testimony was offered by Mr. Sam Johnson, Chief Steward of the unit, that he had seen private guards used at a Region One board meeting in 1978 and that board meetings have traditionally been covered by unit employees.

The Board argues that the existing language in Article VII provides more than adequate protection to the employees, that the Board has no intention to expand the use of private guards, and that the employment of unit members has in fact increased, not dropped. Frank Blunt, Chief of Security for the Board, testified that the Board has not used private guards where employees have traditionally been employed but that a private security guard has been on duty in the building in which Region One meetings have been held. Chief Blunt explained that part of the agreement in the purchase of that particular building was that the then existing security personnel would remain.

The evidence shows that private guards have traditionally been employed at the bus terminals, at adult education classes and at new

construction sites. The Board has indicated that it intends no expansion outside of these areas and in fact no proof of any expansion has been shown. There has been no layoffs due to the employment of private guards and the existing contract language does provide adequate protection in this regard. It is foreseeable that the addition of language such as that proposed by the Union would create more problems than it would solve, for both the Board and the Union.

Recommendation: Retain present language.

2. Reduction of number of years to maximum pay rate:

Under the present wage agreement, an employee reaches the maximum pay rate on the wage scale after reaching his or her seventh year of employment by the Board.

The Union proposes reducing the number of years required to reach the maximum rate of pay from 7 to 6 for the 1979-80 contract year and from 6 to 5 in the 1980-81 contract year. The Union argues that it is unfair to require the employee to work 7 years before reaching maximum pay since the guards perform the same duties from year to year, plus they receive no extra bonuses, as the teachers do, for completing required periodic training programs. Moreover, the Board is not unable to pay higher wages as evidenced by the recent filling of new supervisor and inspector positions.

The Board proposes leaving the pay scale as is, contending that the employees received good wage increases under the new wage agreement and that the Board is not in a position financially to pay such higher wages. Chief Blunt testified that the new positions being filled were provided for under the previous year's budget, and that he has been directed by the Board to reduce his department's new budget.

The evidence presented suggests no rationale for reducing the number of years to maximum steps on the wage scale. The present schedule provides appropriate experience increment steps and the only basis for reduction in the years is to increase overall wages. The parties have agreed on the wage rates for the new contract and that agreement will not be disturbed.

Recommendation: No change should be made in wage schedule steps.

3. Work scheduling for Easter, Christmas and summer break periods:

There is no present contractual language concerning the scheduling of work during Easter, Christmas and summer breaks. During these break periods, all or most of the schools are closed, so the focus of security shifts from day time student monitoring to evening and night time property protection. This requires a temporary rescheduling of some employees in terms of both job location and shift.

The Union proposes that such rescheduling be done on the basis of seniority, with the following new contract language:

"During the Easter, Christmas and summer break periods, when and if any shift is increased, the most senior security person shall have the option to exercise his/her seniority for shift preference and work locations.

If the employer cannot fill said increased schedule by volunteers, employer shall have the right to fill said position by using inverse seniority."

The union contends that holiday and summer schedules are presently made without regard to seniority whatsoever. Mr. Herman McWilliams, a security officer with Number 1 seniority, testified that he was rescheduled from days to afternoons during the September 1979 teachers' strike without any option to remain on days. Ms. Parker, a steward with six years seniority, testified that she was rescheduled from afternoons to midnights during one summer even though there were security

guards with less seniority working day shifts. Mr. Johnson had a similar experience.

The Board has proposed that all assignments of security officers to positions during summer school shall be made on the basis of seniority. The Board submits, however, that it cannot make holiday schedules solely on the basis of seniority as the schedules are for a very brief period of time, and with over 200 employees, the logistics of such a system would be extremely difficult.

The evidence demonstrates that there have been inequities in the rescheduling of employees. Change to an overall "seniority only" system of scheduling, however, is simply unworkable. The Board acknowledges that it would be possible to base summer schedules on seniority, at least as far as summer school assignments are concerned. This would be an appropriate change. For other positions, consideration must be given to experience and ability in the particular functions, particularly with lobby console assignments. Scheduling during Christmas and Easter breaks is a different matter and there must be greater flexibility on the part of the Chief of Security due to the brevity of the reassignment.

Recommendation: Schedules for summer school should be made by the Chief of Security on the basis of seniority. All other summer assignments should be made on the basis of seniority as the primary factor, except in those cases where experience, training, or work record require otherwise. For Christmas and Easter breaks, seniority should be considered as a primary factor in making assignments, but experience, training, work record and the efficient operation of the department should be other appropriate considerations.

4. Shift changes and overtime

In Article XXII of the old contract, the work week is established

as 8 hours per day 5 days a week from Monday through Friday "with no split shifts". There are three shifts, being 7:00 A.M. to 3:00 P.M., 11:00 A.M. to 7:00 P.M., and 7:00 P.M. to 3:00 A.M. Overtime is paid at one and one-half times the hourly rate for all hours worked in excess of eight hours in any one day or over 40 hours in any week.

Problems have arisen in the past when employees have been rescheduled from one shift to another and have been required to report to work on a new shift eight hours after they finished their prior work shift.

The Union, therefore, proposes that the following language be added to the contract:

"When an employee is affected by a shift change, said employee shall have at least 16 hours time off before being rescheduled.

If an employee is rescheduled to work without receiving at least 16 hours of time off, said employee shall be paid at the appropriate premium rate for the first 8 hours worked."

The Board contends that providing 16 hours between shifts would be too disruptive and could result in having no one available to work the first day after a rescheduling.

In evidence presented by the Board, it was noted that it would be possible to have an employee transferred from the afternoon shift one day to the midnight shift the next day (commencing at midnight) without paying the employee at the premium rate of pay. However, both the present wage and hour regulations and the old contract language would not allow such a result. It is apparent that this matter requires clarification to ensure fair treatment of the employees. Providing only eight hours between shifts without extra compensation therefore is not proper. To illustrate, if an

employee works the afternoon shift on Monday from 11:00 A.M. to 3:00 P.M., his 24 hour day runs from 11:00 A.M. Monday to 11:00 A.M. Tuesday. If he is required to work the midnight shift at 12:00 A.M. Tuesday, he will have worked two shifts in the same day. For this the employee must be adequately compensated.

The new language proposed by the Union is not only fair and proper, but is what the Board should have been doing all along.

Recommendation: The Union proposal should be adopted.

5. Revision of grievance and discharge provisions:

Article IX of the old contract contains the procedure for handling employee grievances. The grievance steps are as follows:

- Step 1: Immediate supervisor
- Step 2: Field supervisor
- Step 3: Chief of security
- Step 4: Deputy superintendent
- Step 5: General superintendent
- Step 6: Arbitration

Discharge and discipline provisions are contained in Article XI, which provides as follows:

"ARTICLE XI - DISCHARGE AND DISCIPLINE

A. The Board agrees promptly, upon the suspension or discipline of an employee, to notify the Union by telephone and to confirm such notice in writing.

B. The specific charges resulting in such suspension or discipline shall be reduced to writing within five (5) working days by the Chief Security Officer or his designee and copies shall be furnished to the employee and, if the employee wishes, to the Steward. The employee shall sign a copy of the charges indicating receipt with the understanding that the signing does not necessarily constitute admission thereof.

C. Within two (2) working days of receipt of the charges, the employee may request a departmental hearing, in writing, including the names of witnesses, if any.

D. Accompanying such a request may be a written statement from the employee relating his version of the facts and circumstances involved in the incident.

E. The employee at this hearing shall have the right to Union representation upon his request.

F. The Chief of Security or his designee shall issue his decision to the employee and to the Office of Personnel within three (3) working days of the end of the hearing with a copy to the local Union and Chief Steward, unless otherwise requested by the employee.

G. If the decision is not satisfactory to the Union, the matter shall be referred to Step 4 of the grievance procedure.

H. The use of past records at a hearing shall be restricted to items which are relevant to the current charge."

The Union proposes amending Article IX by adding the following language:

"For discharges only. The employer shall hold a Step 5 hearing within 10 working days of the date a recommendation for discharge is issued to an employee. The employee and the Union shall be notified of the hearing date. The employer shall provide the Union with all material relative to the discharge at least 5 working days prior to the scheduled hearing.

The employer shall be the department head or his/her designee who has the authority to make the recommendation for discharge."

The Union argues that the present grievance procedure permits cases of severe discipline to be dragged out over a long period of time to the harm of the affected employee. The Union desires to abbreviate the procedure in such cases to afford expeditious resolution.

The Board, while admitting that Article XI needs amendment, urges that the solution offered by the Union is improper as it cuts the Chief of Security out of the matter altogether.

There is no question that Article XI could be improved and revisions such as those recommended below would be helpful.

Recommendation: Article XI should be amended to provide that grievances of severe discipline should begin at Step 3 and, if necessary, then go to Step 5, skipping Step 4, and, if necessary, then to Step 6, all within reasonable time periods. The following language is recommended:

"ARTICLE XI - DISCHARGE AND DISCIPLINE

A. Upon the suspension or discipline of any employee, the Board shall notify the Union of such by telephone with confirmation in writing.

B. The specific charges resulting in such suspension or discipline shall be reduced to writing by the employee's field supervisor within five (5) working days of imposition of such suspension or discipline. Copies shall be furnished to the employee and his steward. The employee shall sign a copy of the charges indicating receipt.

C. The employee may request a hearing before the Chief of Security or his designee if, within two working days of receipt of the charges, a written request for such hearing is delivered to the office of the Chief of Security.

D. Within ten (10) working days of receipt of a written request for hearing, the Chief of Security or his designee shall hold a hearing on the suspension or discipline. The employee shall have the right to Union representation at the hearing. (Step 3 grievance procedure)

E. Within five (5) working days of the conclusion of the hearing, the Chief of Security or his designee shall deliver copies of his decision affirming, reversing or modifying the suspension or discipline to the employee, the Chief Steward, the Union and the Personnel Office, unless otherwise requested by the employee.

F. In all suspension or discipline cases other than discharge, the matter shall be referred to Step 4 of the grievance procedure if the Union is not satisfied with the decision.

G. In all discharge cases the matter shall be referred to Step 5 of the grievance procedure if the Union is not satisfied with the decision of the Chief of Security or his designee, (Skipping Step 4). The Step 5 hearing shall be held within 10 days of receipt of written request for such hearing.

H. The use of past records at a hearing shall be restricted to items which are relevant to the charge considered."

6. Advance sick time:

The arguments and evidence presented on this issue were essentially the same as those presented in the other contract cases and do not bear repeating.

The theory of advance sick time is simply not supportable.

Recommendation: Maintain present language.

7. Additional \$5,000 life insurance:

The Board presently provides a \$10,000 group life insurance policy for the employees in this unit. The Union demands an increase in life insurance to \$15,000. The Union argues that it is asking for very little here, which is only what other Board employee units already get. Moreover, the security officers have a greater need for this protection due to the violent atmosphere in which they work.

Insufficient data on what life insurance benefits, if any, are provided to other units was found by the Hearing Officer. From the evidence that was available, there was an insufficient basis for recommending a change in this benefit.

Recommendation: No change.

8. Shift premium pay:

Under the old contract, no difference in pay is received by employees depending on what shift they work. The Union proposes a provision for shift premiums as follows:

"Those employees scheduled to work an afternoon or midnight shift, as defined under Article XXII, Section B of our 1977-1979 contractual agreement, shall receive the following shift differential:

Afternoon Shift: 15¢ per hour during 1979-1980 contractual year and 20¢ per hour during the 1980-1981 contractual year.

Midnight Shift: 20¢ per hour during 1979-1980 contractual year and 25¢ per hour during the 1980-1981 contractual year."

The Union submits that this is a modest request and that all kinds of employers pay a shift premium in recognition of the inconvenience to the employee of working irregular hours.

The Board argues that this is simply another effort by the Union to increase the wage rates after those rates had already been agreed upon

by the parties.

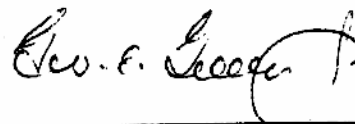
In light of the economic settlement reached in this case and the paucity of evidence on comparable cases, no change regarding this issue can be recommended.

Recommendation: No change.

CONCLUSION

Settlement on the basis of the recommendations set forth above would provide a fair and reasonable resolution of this dispute.

Respectfully submitted,



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Dated: December 10, 1979