7/27/82 FF

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STATE OF MICHIGAN

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

In the Matter of Fact Finding between:

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFERS, WAREHOUSEMEN, AND HELPERS, LOCAL 214,

Union,

-and-

BOARD OF EDUCATION FOR THE SCHOOL DISTRICT OF DETROIT, MICHIGAN,

Employer.

Case Nos. D 81 D-777 and D 81 C-447

Fact Finder: Jerold Lax

Detroit Public Schools

Appearances:

For the Union -
Walter Sacharczyk, Business Representative

For the Employer -
Gordon J. Anderson, Esq.

FACT FINDER'S REPORT

Introduction

In this matter, fact finding has been sought with regard to issues arising in the context of collective bargaining between the Employer and Union relating to two separate bargaining units, one involving bus drivers, team leaders, and router-dispatchers, and the second involving site management, warehouse and food service workers. A collective bargaining agreement concerning the first of these units covered the period September 1, 1979 - August 31, 1981, and a collective bargaining agreement concerning the second of these units covered the period August 25, 1979 - August 24, 1981. Upon expiration of these contracts,

collective bargaining failed to produce new agreements, and mediation similarly failed to bring about agreement between the parties. Hence, upon the Union's request, fact finding was ordered. The parties appear to be in agreement that the recommendations of the fact finder shall relate to the one-year period following expiration of the pre-existing agreements, although it is obvious that this one-year period will itself soon expire.

Some 21 issues were included by the Union in its initial petition for fact finding, and the Employer indicated a desire to seek fact finding with regard to four additional issues. During the course of the fact finding proceedings, it was indicated that agreement had been reached with regard to certain of these issues, and that other issues would be withdrawn from fact finding to be considered in other administrative proceedings. With regard to those issues upon which agreement had been reached, it was the desire of the parties that the substance of these agreements be included in the fact finder's report. The issues concerning which the parties remained in disagreement, and which had not been withdrawn for consideration in other administrative proceedings, were the following:

1. wages
2. unilateral increase in duties of bus drivers
3. subcontracting
4. overtime for router-dispatchers and team leaders
5. definition of emergency
6. stewards' preference for weekend field trips
7. shift premium for mechanics

8. uniforms for mechanics

9. life insurance amount

10. mileage for router-dispatchers and team leaders

11. router-dispatcher and team leader assignments by seniority

12. semi-helper classification rate adjustment

13. holiday for Martin Luther King's birthday

14. summer work assignments for bus drivers

15. shift assignments for team leaders

16. assignments for site management drivers and helpers

17. evaluation for site management workers

The items concerning which the parties reached agreement and which the parties desired to have included in the report were as follows:

1. premium pay in site management

2. dental insurance

3. snow day compensation

Each of the above issues will be given more extensive consideration below. The fact finder will retain jurisdiction of this matter for a period of 45 days from the date of this report in the event that any party desires clarification concerning any aspects of the report.

Wages

It is the Union's position regarding wages that employees in both units should be granted a 7% increase in wages retroactive to the date of expiration of the pre-existing collective bargaining agreements, this 7% increase to remain in effect for a one-year period following said

expiration dates. It is the position of the Employer that no wage increase be granted for the one-year period in question.

It might be observed at the outset that the presentations of the parties with regard to the question of wages were perhaps more limited in scope than is sometimes the case in the context of fact finding or interest arbitration. The Union determined that it would offer as comparable wage data only data concerning other bargaining units of the instant Employer, and that, indeed, only some of the other bargaining units of the Employer would be included. Hence, the record contains no information concerning wage rates of other individuals performing for other employers services comparable to those being provided by members of the instant units for the instant Employer. By the same token, the Employer, although offering testimony concerning its overall financial difficulties, presented little or no budget information which would help to demonstrate the potential availability or unavailability of funds from other areas to be utilized as the source of increased wages for employees in various categories. The record also contains little or no information concerning such matters as productivity, cost of living, or historical comparison of wages received by employees in the instant bargaining units with wages received by comparable employees elsewhere. While it would be possible under the regulations of the Michigan Employment Relations Commission to elicit further information from the parties relating to the aforementioned matters, it may be more appropriate under the present circumstances to formulate a recommendation based, to the extent possible, on the information which has been provided by the parties. However much

information is provided to a fact finder, the parties must nonetheless continue to bargain concerning the fact finder's report, and in the event the parties determine that information not supplied to the fact finder should play a role in future negotiations, the parties are of course entitled to bring such information to light.

The Union bases its request for a 7% wage increase almost exclusively on the proposition that eight other bargaining units of the instant Employer received wage increases during fiscal year 1981 - 1982 ranging from 7% to 9%, and averaging 7.9%. While the Employer does not dispute either the wage information provided by the Union concerning these eight bargaining units nor the average increase figure calculated by the Union, the Employer points out that in all the instances cited by the Union, the increases in question resulted from collective bargaining agreements which had been negotiated in advance of the 1981 - 1982 period. The Employer suggests that it is of far greater relevance to note that in the only two units where contract settlements have been reached since the beginning of the 1981 - 1982 fiscal year, the agreements have provided for no wage increases. The Employer produced testimony from its chief fiscal officer that although there had been a slight increase in revenue in fiscal 1981 - 1982 over fiscal 1980 - 1981, inflation has produced the result that the real funds available to the Employer have in fact been decreasing, and despite state law requirements that the budget be balanced, a deficit of some 23 million dollars was anticipated for the 1981 - 1982 year. As a result of this financial situation, the superintendent of schools had proposed in December 1981 that certain concessions be made by all bargaining units, and certain units gave up days of pay in exchange for the future grant

of additional paid vacation days. It was the testimony of the Employer that the instant Union declined to participate in these discussions of concessions.

In light of the information presented, the Union's exclusive reliance upon the average 7.9% increase for certain other bargaining units would appear to be misplaced. These increases resulted from bargaining which had taken place in advance of the year in question, and in the case of units for whom no such continuing agreements exist, prevailing economic conditions at the time of contract expiration are obviously of substantial relevance to future wage levels. The fact that those few agreements which have been reached since the commencement of the 1981 - 1982 fiscal year involved no increases would suggest that the Union's 7% figure is unrealistic, although it may not be adequate to demonstrate in the Employer's behalf that no increase is jusitified, since the record is devoid of information concerning the wide variety of reasons which might underlie an agreement that no wage increase be granted. It should also be observed that while the increases in the continuing contracts cannot in and of themselves demonstrate that the instant bargaining units should obtain comparable increases, the increases in the continuing contracts offer at least some marginal support for the position that some increase for the instant units is justified, since there is something to be said for attempting to equalize to some degree the purchasing power of employees within the same general market area.

Just as the Union's reliance upon the increases contained in eight continuing contracts is insufficient to justify the 7% wage increase

sought by the Union for the instant units, the Employer's general testimony concerning its financial difficulties may be insufficient to compel the conclusion that no increase be granted. As earlier noted, the lack of detailed budgetary information available to the fact finder makes it difficult to conclude with complete confidence that an inability to provide any increases has been conclusively demonstrated. See, e.g., City of Detroit v. Detroit Police Officers Association, 408 Mich 410, 294 NW2d 68 (1980). This, of course, is not to deny in any way that the Employer faces exceedingly serious financial problems, and that unions representing those working for the Employer must bear in mind the possibility that any increases in contractual wages may ultimately create the risk of less jobs being available for the employees in question. Nonetheless, the Employer itself indicates that inflation has produced for it the effect that even with an increase in revenues, less real dollars are available to meet its needs, and inflation can be assumed to produce the same hardship for an individual worker who may have even less budget flexibility than the Employer.

During the course of the fact finding hearings, certain information was provided concerning the substance of the positions expressed by the parties during the abortive bargaining which lead to the fact finding. While, in the absence of final agreement, it is difficult to hold a party to a position expressed during the bargaining process, and while fact finders should be aware of the potential inhibiting effect on future bargaining of making use of tentative offers as a basis for fact finding awards, it has nonetheless been held with some frequency that positions expressed by the parties during the

bargaining process may be of considerable relevance in assessing the facts of the situation. See, e.g., Rochester Transit Corp., 19 LA 538 (1972); Cummins Sales, Inc., 54 LA 1069 (1970). In the instant case, it would appear from the record that on January 26, 1982, the Employer made a wage offer of a 3% increase effective September 1, 1981, an additional 2% effective March 1, 1982, an additional 3% effective September 1, 1982, and an additional 2% effective March 1, 1983. Less than a month later, on February 23, 1982, the record indicates that the Employer revised its position to suggest a pay increase of zero. While it is certainly within the realm of possibility that any one or more of a number of factors may have come to the attention of the Employer between the two indicated dates to suggest the inappropriateness of the January 26, 1982 offer, the record does not reflect what, if anything, these factors may have been. Particularly since the parties have agreed that the instant fact finding should deal only with the one-year period following contract expiration in the fall of 1981, it would not appear inappropriate to utilize the Employer's January 26, 1982 offer as providing at least some guidance as to the wage level which would be suitable in the event that some increase were found to be justified.

Taking into account all the factors heretofore discussed, I would include that an increase is warranted, and that the increase should be 3% as of the date of contract expiration, and an additional increase of 2% for the period commencing six months thereafter. I would reiterate that there may be a number of factors not brought forth during the fact finding process which would be of relevance in evaluating this recommendation during the context of subsequent collective bargaining, and, further,

that in light of the Employer's financial position, an increase of the sort recommended could produce other results for members of the bargaining unit which the Union would do well to consider. I would also add that in a fact finding situation such as the present one, where the fact finder is called upon to make recommendations concerning a large number of issues, many of the issues are necessarily interrelated, and that the facts relevant to one issue may also be relevant to certain of the other issues. Thus, although I have concluded that some increase in wages for the relevant period is justified, I have taken the Employer's financial situation into account in considering certain other issues relating to employee benefits and to the flexibility which should be available to the Employer in managing its affairs.

Unilateral increase in duties of bus drivers

It is the position of the Union that because a number of federally-supported transportation aides were released in the spring of 1981 as a result of the elimination of federal funding for their positions, the duties of bus drivers increased substantially, and this increase in duties should be reflected in a pay supplement of .50 cents an hour. It is the position of the Employer that bus drivers throughout the state have the responsibilities of maintaining order and helping students across streets which the instant bus drivers claim to be added burdens resulting from the departure of the transportation aides. It is therefore the position of the Employer that no income supplement is appropriate.

While it is no doubt the case that the presence of transportation aides was of substantial help to the bus drivers in maintaining student discipline and otherwise enabling the driver to concentrate more fully

on the safe operation of the vehicle, it is clear from the documentary evidence made available in the fact finding hearings that responsibility for such matters was at best shared, and that in the absence of transportation aides it was contemplated that the drivers would be fully responsible for the matters in question. Taking into account the earlier conclusion that some wage increase would be justified for all employees in the instant bargaining units, I would conclude that no further supplement should be awarded to the bus drivers as a result of the absence of the transportation aides.

Subcontracting

The pre-existing collective bargaining agreements between the parties each dealt with the topic of subcontracting in a manner which the Employer now propses to change. The contract relating to bus drivers, team leaders, and router-dispatchers provided as follows concerning subcontracting in Article XIII:

> 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 the members, nor shall it result in a reduction of the present work force.
>
> 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.

C. Should any provision or article of this Agreement be held invalid by a change in statute or Federal law or by a court of law, the rest of the Agreement shall remain in effect and negotiations shall be entered into immediately to replace the article, or provision.

The contract relating to site management, warehouse and food service workers provided as follows in Article XXXIX concerning subcontracting:

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 convered [sic] 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.

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.

It is the Employer's proposal to substitute for the above-quoted language in each contract the following language: "The right to contract services is vested in the Board. The right will not be used to undermine the Union." It is the position of the Union that the language as contained in the pre-existing contracts should not be modified, for the reason that the Employer will rely upon the modified language as a basis for subcontracting an increased amount of work, thereby decreasing employment opportunities available to members of the bargaining unit.

A substantial amount of testimony was presented by the Union during the course of the fact finding hearings for the avowed purpose of demonstrating that the Employer was already conducting its operations as though it were operating under its proposed modified contractual language concerning subcontracting. I find that, for the most part, the testimony presented suggests that the Employer has been engaging in subcontracting for certain specified services (e.g., snow removal) for an extended period of time, and that most of this subcontracting had commenced well in advance even of the pre-existing collective bargaining agreements containing the language concerning subcontracting which the Union now seeks to preserve. It would also appear, however, that the Employer's suggestion that its proposed new contractual language concerning subcontracting is merely designed "to streamline" the pre-existing language in all likelihood considerably oversimplifies the situation. There is some reason to suppose that, particularly in light of its financial difficulties, the Employer would desire to avail itself

of opportunities to subcontract work if the subcontracting could result in cost savings, and it is therefore relatively safe to assume that the Employer's proposed language is designed to facilitate the subcontracting process. I would conclude that the Employer has advanced no compelling reason for modifying the pre-existing contract language, which provides at least some obligation on the part of the Employer to discuss proposed subcontracting with the Union. The pre-existing language does not appear to prohibit the Employer from engaging in subcontracting under reasonable circumstances, and I would recommend that the pre-existing language be retained in each contract.

Overtime for router-dispatchers and team leaders

The Union contends that the Employer has begun to use management personnel with increasing frequency to fill in for router-dispatchers and team leaders when it is necessary that the functions of those positions be performed beyond the normal working hours of the employees. The Union desires that performance of router-dispatcher and team leader responsibilities beyond normal working hours be done by router-dispatchers or team leaders, and not by management personnel. While the Employer did not clearly express a position on this issue, it would appear that the Employer would wish to retain a degree of flexibility in determining whether overtime work should be performed by the employees who would have performed that work during normal working hours or by representatives of management.

The testimony would suggest that the Employer may indeed have reduced, to some extent, the opportunities for overtime work, particularly in the case of the router-dispatchers. It does not, however, appear that the pre-existing collective bargaining agreement guaranteed any given

amount of overtime work to members of the bargaining unit, and I would not recommend at the present time that any such guarantee be included in the agreement between the parties for the 1981 - 1982 year.

Definition of emergency

The Union contends that the Employer has relied upon the concept of "emergency" to justify reduction in work for bargaining unit employees, and the Union therefore seeks to have a definition of "emergency" included within the contract of the parties. The definition suggested by the Union is as follows: "Emergency shall be defined as a situation or occurrence of a serious nature, developing suddenly and unexpectedly, and demanding immediate action." The Union does not go on to suggest precisely what actions the Employer might be permitted to take in the event of an emergency as so defined. It is the position of the Employer that no definition of emergency is needed, and that if the Union is of the view that the Employer has inappropriately relied upon the notion of emergency to produce violations of the collective bargaining agreement, such violations may be considered through the grievance procedure.

It is of course possible that the Employer would rely upon the concept of emergency to attempt to justify actions which would in some manner interfere with rights secured by the collective bargaining agreement, particularly in light of the Employer's understandable desire to minimize costs. It might thus be in the interests of the Union to have a workable definition of emergency included in the contract, and might, indeed, be in the interest of the Employer as well so that disputes concerning the utilization of the concept could be minimized. While I would strongly suggest that the parties give attention to this matter during the course of subsequent bargaining, I do not believe it would be

appropriate at this time to impose the language suggested by the Union or to suggest specific alternative language. Any definition of "emergency" is likely to present practical problems in its application, and the Union's proposed definition illustrates this point. Each of the terms included within the definition ("serious nature," "developing suddenly and unexpectedly," "demanding immediate action") is capable of giving rise to disputes as difficult to resolve as any dispute which would arise from the simple use of the term "emergency." I would encourage the parties to arrive at a definition which they find workable, and in the absence of such agreement, the parties will of necessity have to resort to the grievance process in the event that the concept of emergency is used in any way to undermine contractual rights.

Stewards' preference for weekend field trips

The Union proposes that the following language be included in the collective bargaining agreement: "It is understood and agreed by both parties to this Agreement that since the Union stewards do not participate in regular work-day field trips (Monday through Friday), they will be given preference for week-end and holiday work." Although the Employer has suggested that inclusion of such language would upset some bus drivers because stewards would receive overtime pay for weekend duties, the Employer does not appear from the record to be seriously opposed to the Union's request. I would therefore recommend that the language sought by the Union be included in the agreement.

Shift premium for mechanics

During the period convered by the most recent collective bargaining agreements, the record indicates that the Employer created three shifts for mechanics, one from 6 a.m. to 2 p.m., a second from 10:30 a.m. to 7:00 p.m.,

and a third from 2:30 p.m. to 10:00 p.m. The Union requests that a 27 cent per hour premium be paid for those working the second of these shifts, and that a 32 cent per hour premium be paid for those working the third of the shifts. The Union does not request that these premiums be retroactive to the date of expiration of the prior contract, but rather commence as of the date that a new agreement is adopted by the parties. The Employer contends that in those units where shift premiums are paid, the workers involved in fact work until midnight, whereas none of the mechanics work until that hour. The Employer further contends that its economic resources would not justify the payment of shift premiums.

The fact that workers in other units who receive premiums may work somewhat later than the mechanics on the second and third shift does not in and of itself require the conclusion that shift premiums be unjustified. Because the 1981 - 1982 period is nearing an end, however, and also because other aspects of this report may impose significant economic burdens upon the Employer, I would recommend against shift premiums for mechanics during the period involved.

Uniforms for mechanics

The Union notes that employees in two other units (food service and security) are provided with uniforms under the terms of the applicable collective bargaining agreements. The Union contends that because mechanics work in situations where their clothes are easily damaged, they too should be provided with uniforms, and with foul weather jackets for inclement weather. The Employer does not deny that the mechanics work in situations where their clothing is likely to be damaged, but contends both that its

lack of financial resources make the provision of the uniforms difficult and that the uniforms which are provided for food service and security employees serve an important identifying function for those employees, thereby providing a justification for uniforms which is not present in the case of mechanics.

The matter of uniforms, much like the matter of shift premiums, is one where, were the financial picture different, it might be appropriate to recommend that the Union's request be granted. While it might not be necessary actually to provide uniforms for the mechanics, some provision might be made for the payment of cleaning expenses for the clothing worn by the mechanics in the performance of their jobs. Under the existing circumstances, however, it would be my recommendation that uniforms or cleaning allowances not be provided during the period involved.

Life insurance amount

The Employer has offered to raise the amount of life insurance available to bargaining unit members from $10,000 to $12,500. The Union requests that the life insurance amount available be the "weighted average" of what is provided for other employees of the Employer. While the Union indicated it would obtain the average for the other employees by dividing the total amount of insurance provided by the Board by the number of people to whom the insurance was provided, the Union did not clarify how it would "weight" the average so obtained in order to produce the figures to be utilized for members of the instant bargaining units. There is merit in the Employer's position that its offer is more easily understood, and there is no compelling reason in the record why the formula suggested by the Union would produce a more desireable result. Hence, I would recommend adoption of the Employer's offer of insurance

in the amount of $12,500 per employee.

Mileage for router-dispatchers and team leaders

Although the parties did not indicate in their post-hearing summaries that the amount of mileage allowance to be provided for router-dispatchers and team leaders was an item which had been settled, nothing in the record indicates that the positions of the parties had in fact differed on this issue. The record indicates the position of both parties to be that mileage allowance for router-dispatchers and team leaders should be increased to the top allowance being paid to other employees. I therefore recommend that this provision be included in the agreement of the parties.

Router-dispatcher and team leader assignments by seniority; summer work assignments for bus drivers

It would appear from the record that the question of the method by which router-dispatchers and team leaders would bid on work assignments and the question of the method by which summer work assignments would be determined are interrelated. With regard to bidding by router-dispatchers and team leaders, it appears to be the position of the Employer that bids would be made on work assignments at the beginning of the school year, and that assignments would remain in effect until the beginning of the next school year. It is the Union's position that bidding take place at the beginning of the school year but that assignments remain in effect only until the end of the school year, rather than the beginning of the next school year. Hence, the Union's position would encourage re-bidding for summer assignments. The record also suggests that the Union's position differs from the Employer's position in that bidding under the

Union's proposal would be governed by seniority; it is not entirely clear whether seniority would also govern under the Employer's approach. Concerning the work assignments available for the summer, the Union would appear to be of the view that rather specific work assignments, as had been agreed to in prior years, should be made a part of the collective bargaining agreement for 1981 - 1982. The Employer, on the other hand, wishes to retain considerable discretion in unilaterally determining the work available during the summer. The Employer specifically proposes that the following language be included in the collective bargaining agreement:

> All members of this unit are 39 week or 41 week employees. When management determines that extended work is necessary or available during periods outside of the regular school year, work will be offered to members of the unit for periods of time established by management. Shift times and numbers of staff required will be determined by management dependent on the size of the operation.

Viewing the Employer's proposals concerning bidding for assignments and concerning summer work in combination, it would appear that an effort has been made by the Employer both to retain control over the amount of summer work available, and to reduce controversy over which individuals would perform any summer work which is made available.

With regard to the method of determining the amount of summer work available, I would conclude that imposing the detailed requirements of the prior year's summer agreement on the parties may be unduly rigid and unduly burdensome on the Employer's resources. On the other hand, the virtually unfettered discretion which would be allowed by the Employer's proposed

contract language is not adequately protective of the Union's legitimate interest in the availability of summer work. Hence, I would recommend that while management retain the ultimate authority to determine what work is necessary beyond the regular school year and what shifts and numbers of employees are necessary to perform the work in question, management be contractually required to consult with the Union on all of these issues, in the same manner management is required to consult with the Union on the question of subcontracting under the contractual language I have earlier recommended. Because summer work assignments may differ significantly from work assignments during the regular school year, it would be my recommendation that, as requested by the Union, bidding for summer work assignments be done separately from bidding for regular school year assignments, and that the bidding be governed by principles of seniority.

Semi-helper classification rate adjustment

The Union has requested that the pay for the position of semi-helper in the site management unit be increased by 25 cents per hour in addition to any general pay increase, and that the rate of pay for the grade-all operator be increased to the rate paid to the semi-helper. The Union does not request that these increases be made retroactive to the date of the expiration of the prior collective bargaining agreement. The Union suggests that some unspecified historical accident has resulted in the present wage differential between the semi-helper and the grade-all operator. The reason for the proposed increase of 25 cents per hour in the semi-helper's pay rate does not appear to be clearly explained in the

record. The record also fails to reflect with any clarity the Employer's position concerning any of these proposals. I would recommend that the proposed changes not be instituted for the 1981 - 1982 year and that the parties bargain further with regard to these matters for future contractual periods, with perhaps greater light being shed on the possible merits of the Union's claim.

Holiday for Martin Luther King's birthday

The Union requests that Martin Luther King, Jr.'s birthday be included as a paid holiday in the collective bargaining agreement between the parties. The Employer is apparently willing to allow Martin Luther King's birthday as a paid holiday but does not wish this holiday to be included within the contract. I gather from this apparent difference in position that the Employer would wish to reserve the right to refuse to grant a paid holiday for the occasion in question in future years, and therefore would prefer that the holiday not be enshrined in the contract. The record is devoid of evidence as to how this particular holiday is treated in the remainder of the Employer's bargaining units. I would recommend that the holiday not explicitly be provided for in the agreement relating to the 1981 - 1982 period.

Shift assignments for team leaders

Under the expired collective bargaining agreement relating to bus drivers, router-dispatchers, and team leaders, the parties agreed to what they termed an "experiment" relating to shift assignments for team leaders. Under the experiment, team leaders were to be assigned to work straight 8-hour shifts, rather than the split shifts which apparently they had worked prior to the collective bargaining agreement in question. The Union now requests that team leaders continue to work straight shifts,

while the Employer proposes that the shift assignments for team leaders be regulated in accordance with the following language:

> Since the duties and responsibilities of Team Leaders can be carried out only when drivers areworking, the Team Leaders shall work eight hour split shifts each regular day of operation during the school year, four hours in the morning and four hours in the afternoon. Times of the shifts will be set by Terminal Manager; shifts will be selected by employees on the basis of seniority. One Team Leader, based on seniority, will be scheduled for a straight eight (8) hour shift.

It was the contention of the Employer that the principal function of a team leader is to work with a designated group of bus drivers, and that the assignment of team leaders to split shifts is most conducive to assuring that a team leader will be present both at the beginning and the end of a particular bus driver's run and will therefore be in a position to develop an effective working relationship with the drivers in question. The Union contended that it is the straight shift assignment which is most consistent in improvement of the Employer's operations, for the reason that team leaders would be more readily available to help with maintenance of buses if they remained at the work place after a particular group of drivers had left on their respective routes. The Union further argued that the Employer's proposal concerning the assignment of team leaders to split shifts was in fact designed to minimize overtime opportunities for team leaders, since employees assigned to straight shifts would more often be called upon either to come in early or stay late to complete necessary work assignments.

I would conclude that the Employer's position should prevail on this issue, principally for the reason that the Employer may be in the best position to determine how a decreasing work force may most effectively be allocated to perform those functions necessary to carry on the daily business of the enterprise.

Assignment for site management drivers and helpers

In the expired contract relating to site management personnel, the following provision is appears:

> Material will be placed in an orderly fashion for the convenience of drivers in distribution of their deliveries for the schools. Employees shall only work within the area of the mail room in order to set up their next day's assignment only. Compulsory mail room work shall not be mandatory.

The Employer proposes that for the 1981 - 1982 period, employees in that bargaining unit who are employed as zone drivers and sedan drivers be available for assignment in sorting mail and handling stock during those times when their services are not needed for driving. It is the position of the Union that the drivers should not be assigned to mail room work, and that, indeed, an August 25, 1978 arbitration award by arbitrator Julian Cook was intended to prohibit the performance of mail room work by the drivers. It is not entirely clear that the Cook award was intended to prohibit such work, and, in any event, the Cook award appears to have been in the nature of interest arbitration to establish the terms of a particular collective bargaining agreement, and was not intended to preclude different terms from appearing in subsequent agreements. Some suggestion was made during the course of fact finding proceedings that the assignment of drivers to perform mail room work would give rise to jurisdictional disputes between the instant Union and other unions.

If this is the case, the parties should of course give due regard to this matter during subsequent negotiations. Barring such problems, however, I would conclude that the Employer should be permitted to make the assignments in question so as best to utilize the efforts of the drivers who might not otherwise be fully occupied.

Evaluation for site management workers

The expired contract relating to drivers, team leaders and router-dispatchers contained a provision for periodic performance evaluation by the Employer. The contract for the site management workers did not contain a similar provision, and the Employer requests that such a provision be included for the 1981 - 1982 period. The Union opposes this request, and Union witnesses indicated in testimony at the fact finding hearings that they feared that such periodic evaluations would facilitate efforts by the Employer to eliminate bargaining unit employees. I would conclude that a provision for evaluation is appropriate in the agreement and that this provision should allow grievances relating to unfavorable evaluations in the same manner that such grievances are permitted in the prior contract relating to bus drivers, router-dispatchers, and team leaders.

Premium pay in site management

The parties have agreed to language relating to premium pay. I would recommend adoption of this language, which is as follows:

A. Time and one-half will be paid for all hours worked beyond 8 hours in any given day.

B. Time and one-half will be paid for all hours worked on Saturday.

C. Double time will be paid for all hours worked on Sunday.

Dental insurance

The parties have agreed to language concerning dental premium cost. I would recommend adoption of this language, which is as follows:

> The Board shall pay $18.00 per month per employee to the Teamsters Dental Fund. This amount shall not be increased during the life of the Contract. All members of the bargaining unit shall be eligible for participation in the fund. The Board shall not provide any other dental coverage for members of this bargaining unit.

Snow day compensation

The parties have reached agreement concerning compensation for snow days. I would recommend adoption of this language, which is as follows:

> Employees who work on emergency days, when other employees receive payment for not working, shall receive payment in the form of a compensation day-off for each day worked.

Date: 7-27-82

Jerold Lax, Fact Finder