

STATE OF NEW YORK PUBLIC
EMPLOYMENT RELATIONS BOARD
Case No. CA-0008; M74-351/352

In the Matter of the Arbitration Between

CITY OF BUFFALO

and

BUFFALO POLICE BENEVOLENT ASSOCIATION;
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS,
LOCAL 282, I.A.F.F., AFL-CIO

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CONCILIARY AWARD OF
PUBLIC
ARBITRATION
PANEL

The undersigned Arbitrators, having been designated pursuant to the provisions of Section 209.4 of the New York State Civil Service Law, and having duly heard the proofs and allegations of the parties, hereby make the following

A W A R D

The terms and conditions of employment specified as "not agreed upon" in the petition for Compulsory Interest Arbitration filed by the Unions are decided as follows:

- 1A. The annual salary increase of \$700.00 for each employee in the negotiating unit recommended by fact finder effective July 1, 1974 is adopted.
- 1B. A further annual salary increase of \$288.00 for each employee in the negotiating unit effective January 1, 1975 is granted.
- 2. Demand for changes in Longevity Pay was withdrawn.
- 3. Demand for changes in night shift differential is denied.
- 4. Demand for changes in overtime pay was withdrawn.
- 5. Demand for changes in uniform allowances is denied.
- 6. Demand for an annuity contribution is denied.

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7. Plan J of the G.H.D.I. Dental Plan shall become effective April 1, 1975 at no cost to the employees.
8. Demand with respect to holiday pay was withdrawn.
9. Demand with respect to disciplinary procedures was withdrawn.
10. Demand for 30-day period to fill all vacancies is denied; however, promotional vacancies in both Police and Fire Departments shall be filled within 45 days.
11. Demand with respect to half-day personal leaves was withdrawn.
12. Auto allowance for Fire Department employees who are directed to use their own automobiles shall be \$4.50 per day.
- 13A. Demand with respect to parking is remanded back to the parties for further negotiations.
 - B. Demand with respect to minimum manpower levels is denied.
 - C. Demand for pay adjustment for Desk Lieutenants is denied.
 - D. The demand for the establishment of an Assistant Police Dispatcher in the Police Department is granted.
 - E. The demand for the establishment of Civil Service ratings for Detectives and Detective Sergeants is denied.
 - F. The demand with respect to the computation of vacation allowances is denied.
 - G. The demand that policemen should not be required to submit to polygraph tests is granted.
The demand that policemen should not be ordered to

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stand in a lineup is denied.

- H. The demand that Policemen should be permitted to use their vacations a day at a time up to a maximum of one week is granted.
- I. The demand with respect to charges for personal leave was withdrawn.
- J. The contract shall contain the following clause with respect to seniority:

The Department recognizes the importance of seniority in filling vacancies and shall make every effort to adhere to this policy, provided the senior applicant has the ability and qualifications to perform the work involved. While consultation with the Police Benevolent Association President on such matters is not mandatory, the final decision of the Department shall be subject to the grievance procedure.

- K. The demand with respect to long weekends is remanded to the parties for further negotiations.
- L. The demand with respect to unused vacation time and personal leave is denied.

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R.J. Jr.
Dover

Nathan Cohen

NATHAN COHEN, Public Panel Member
and Chairman

Patrick J. Mangan, Jr.

PATRICK J. MANGAN, JR., Employee
Organizations Panel Member

William Holcomb

WILLIAM HOLCOMB, Employer Panel
Member
Dissenting from Award Paragraphs
1B and 12

STATE OF NEW YORK
COUNTY OF ERIE SS:

On this second day of January 1975, before me personally came and appeared NATHAN COHEN, WILLIAM HOLCOMB and PATRICK J. MANGAN, JR., to me known and known to me to be the individuals described herein and who executed the foregoing instrument and they acknowledged to me that they executed the same.

Carol Ann ...
Notary Public

NOTARY PUBLIC
Notary Public, State of New York
Qualified in this County
My Commission Expires March 30, 1975

STATE OF NEW YORK PUBLIC
EMPLOYMENT RELATIONS BOARD
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LOCAL 282, I.A.F.F., AFL-CIO *

STATEMENT OF
CHAIRMAN OF
PUBLIC
ARBITRATION
PANEL

Pursuant to the provisions of the Civil Service Law,
Section 209.4, Robert D. Helsby, Chairman of the Public
Employment Relations Board designated the following in-
dividuals on November 26, 1974 to serve as a Public Ar-
bitration Panel in this proceeding:

- Nathan Cohen, Public Panel Member and Chairman
- William Holcomb, Employer Panel Member
- Patrick J. Mañgan, Jr., Employee Organization
Panel Member

The Panel was charged by Section 209.4 to heed the
following statutory guidelines:

(v) the public arbitration panel shall
make a just and reasonable determination
of the matters in dispute. In arriving
at such determination, the panel may, but
shall not be bound to, adopt any recom-
mendation made by the fact-finder, and
shall, so far as it deems them applicable,
take into consideration the following and
any other relevant circumstances:

- a. comparison of the wages, hours and
conditions of employment of the employees
involved in the arbitration proceeding with
the wages, hours, and conditions of employ-
ment of other employees performing similar
services or requiring similar skills under
similar working conditions and with other

employees generally in public and private employment in comparable communities.

b. the interests and welfare of the public and the financial ability of the public employer to pay;

c. comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills;

d. such other factors which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment.

The Panel conducted its hearings in Buffalo, New York on December 18 and 19, 1974. The Employer and the two Employee Organizations were present and they were afforded full opportunity to present evidence and argument in support of their respective contentions.

After the closing of the hearings, the Panel met in executive session and deliberated on each of the twenty-five issues presented to it in the Petition For Compulsory Interest Arbitration filed by the Employee Organizations. The results of these deliberations are contained in the Award issued by the Panel on January 2, 1975. The Panel was unanimous in their conclusions on twenty-three of the twenty-five issues. Mr. Holcomb, the Employer Panel Member, dissented on two of the conclusions.

The Panel took into consideration the fact that evidence and argument with respect to all the items involved in the proceeding had previously been presented to a fact-

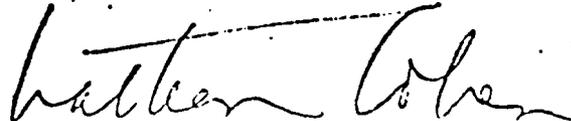
finder and he had made recommendations based upon such evidence and argument. As Chairman, I urged that unless the Panel was presented with persuasive evidence, or unless the Unions voluntarily modified or relinquished one or more of their claims, the recommendations of the fact-finder should not be disturbed. This policy was adopted by the Panel in almost all of the items dealt with in the Award.

The significant deviation from the fact-finder's recommendations was in paragraph 1B of the Award which awarded an additional \$288.00 annual salary increase to the affected employees effective January 1, 1975. This monetary deviation was the result of a unanimous agreement of the Panel to defer the implementation of the dental plan recommended by the fact-finder, to eliminate an increase in the uniform allowance recommended by the fact-finder and to take cognizance of the fact that a major medical provision earlier agreed upon in principle by the parties had not as yet been implemented. The savings in the monetary cost of the fact-finder's recommendations resulting from the changes indicated above were taken into consideration when the additional salary increase was adopted in paragraph 1B of the Award.

I, as Chairman of the Panel, noted that since the fact-finding hearing had been held the Consumer Price Index

has continued to escalate, so that the real wages earned by the affected employees has continued to decline. I also noted that although the City's financial predicament probably had deteriorated since the fact-finding hearing, there was evidence of additional temporary borrowing capacity available to the City by means of budget notes of which the fact-finder probably was not aware when he analyzed the City's ability to finance a salary increase.

Based upon the various factors which Section 209.4 charged the Panel to consider, it is my opinion that the Award of the Panel was fair, equitable and warranted by the evidence presented at the arbitration hearings.



NATHAN COHEN, Public Panel Member
and Chairman

DATED: January 22, 1975

NATHAN COHEN
ARBITRATOR
8 CENTRAL PARK ROAD
PLAINVIEW, NEW YORK 11803

(516) 935-1128

January 4, 1975

Robert D. Helsby, Chairman
New York State Public Employment Relations Board
50 Wolf Road
Albany, New York 12205

Re: City of Buffalo & Buffalo P.B.A., Local
282 I.A.F.F., AFL-CIO
PERB Case Nos. CA-0008; M74-351, 352

Dear Dr. Helsby:

Enclosed is a copy of the Award of the Public Arbitration Panel issued on January 2, 1975 in the above mentioned matter.

The Panel conducted its hearings on December 18 and 19, 1974. It then met in executive session after the closing of the hearing on December 19, 1974 and again on January 2, 1975.

I announced at the opening of the hearings, and again at the commencement of the executive sessions that we would use the factfinding report as a frame of reference and that arguments should be directed at whether or not the factfinder's recommendations should be sustained. Fortunately, the parties and my fellow arbitrators agreed and followed this suggestion. I was unsuccessful, however, in attempting to have the parties convert their approach from a one year contract to a two year package even though both sides expressed an interest in doing so. Both were fearful however that their lack of preparation regarding a second year would preclude any termination of the proceeding within a reasonable period of time.

At the commencement of the executive session I pointed out that a half year had already elapsed of the one year contract period with which we were concerned. I therefore suggested that we adopt the factfinder's recommendations for that half year. Both of the other arbitrators agreed. I then began mediating between the

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CONCILIATION

two arbitrators and although they did not reach complete agreement, the differences at the end were relatively nominal.

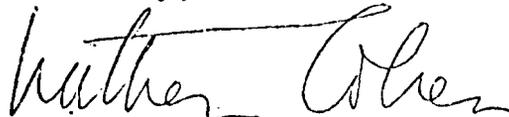
The money package increase awarded for the second half of the contract year is offset by the Unions abandoning a uniform allowance increase recommended by the factfinder and by deferring the implementation of a dental plan recommended by the factfinder. There was also reason for modifying the salary increase recommended by the factfinder because of a deferral of the implementation of a major medical plan agreed upon by the parties prior to the factfinding proceeding and because of new information regarding the budgetary note borrowing power of the City.

The Buffalo proceeding was greatly facilitated by the competent and reasonable approach of my two fellow arbitrators, Pat Mangan and Bill Holcomb. Mr. Mangan is president of the Firefighters and Mr. Holcomb is the recently retired Labor Relations Director for the City. Both have negotiated with each other in the past and both tried to accommodate to the political realities of the situation. The result of their efforts is obvious. Of the 25 items in dispute, there was complete agreement on 23 items. Mr. Holcomb dissented on a car allowance of \$4.50 a day which affected only 8 employees and on the increased salary awarded for the second half of the contract year. Mr. Mangan did not dissent on any of the items even though many items sought by the Unions were denied. Two minor items were remanded back to the parties for further negotiation.

The City had requested that I write a supporting Opinion for the Award and I agreed to do so in the near future. Mr. Holcomb indicated that he would write an Opinion supporting his reasons for dissenting on the two items.

The Buffalo experience of cooperation by the parties and a desire for compromise and expedition should be urged as a precedent for other similar arbitrations in New York State.

Sincerely,



cc: Erwin Kelly

STATE PUBLIC EMPLOYMENT
RELATIONS BOARD
RECEIVED

NATHAN COHEN
ARBITRATOR
8 CENTRAL PARK ROAD
PLAINVIEW, NEW YORK 11803

Copy to Harold

CHAIRMAN'S OFFICE

(516) 935-1128

September 9, 1975

RECEIVED
CONCILIATION

Dr. Robert D. Hélsby
Public Employment Relations Board
50 Wolf Road
Albany, New York 12205

Re: City of Buffalo & P.B.A.
PERB Case No. CA-0008, M74-351/352

Dear Bob:

Enclosed are the papers completing the supplementary proceeding in the above matter.

As you probably recall, back in June the P.B.A. requested a clarification of the earlier Buffalo Statutory Award in which we repeated the parties' agreement that one week of vacation could be taken a day at a time. My suggestion that we conduct this supplemental proceeding by mail or phone rather than in a formal hearing did not work too well because of the apparent reluctance of the P.B.A. to state its position clearly in writing and the City's unusual requests to withdraw from the proceeding if an award adverse to them was contemplated. As a result, protracted letter writing and phone calls were necessary to get the matter going.

Regardless, there is a majority award that should put the question to rest. I am neither billing PERB nor the parties for either my services or out of pocket expenses in this matter in view of the fact that I failed to make prior arrangements if the matter became time consuming, as it unexpectedly did here.

Sincerely,

Nathan Cohen

Handwritten notes and initials

NATHAN COHEN
ARBITRATOR
8 CENTRAL PARK ROAD
PLAINVIEW, NEW YORK 11803

(516) 935-1123

September 9, 1975

Paul T. Mullen, Labor Relations Dir.
City of Buffalo
City Hall
Buffalo, N. Y.

Nicholas J. Sargent, Esq.
800 Western Building
Buffalo, N. Y. 14202

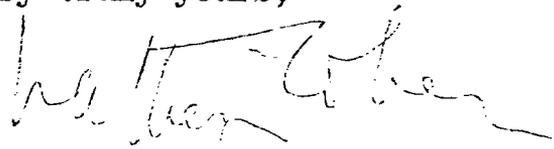
Re: City of Buffalo & Buffalo P.B.A.

Gentlemen:

Enclosed are copies of the Public Arbitration Panel Clarification of Award executed by Mr. Holcomb and myself. I have not as yet received Mr. Mangan's papers as yet.

However, as Mr. Holcomb concurs with me, a majority decision is present and I feel that it would not be proper to delay even a day or two in notifying you of the majority decision.

Very truly yours,



cc: Mr. Mangan
Mr. Holcomb
P.E.R.B.

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EMPLOYMENT RELATIONS BOARD
Case Nos. CA-0003, N74-351/352

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LOCAL 282, I.A.F.F., AFL-CIO *

PUBLIC
ARBITRATION
PANEL
CLARIFICATION
OF AWARD

On January 2, 1975 the Public Arbitration Panel
issued an Award in this matter. Item 13H of that Award
stated:

The demand that Policemen should be
permitted to use their vacations a
day at a time up to a maximum of one
week is granted.

Thereafter, on June 26, 1975 and July 1, 1975 both
the P.B.A. and the City, respectively requested the Panel
to clarify Item 13H of the Award.

Having considered the arguments of the parties,
the Panel issues the following clarification of Item 13H:

1. The prior practice of permitting
vacations to be taken in units of weeks
changed to the extent of permitting one
week of vacation entitlement to be taken
in units of days. The total number
of days or tours of duty off from work
are not to be increased or decreased by
this change. Thus, i.e. an individual

who, on the average, works five days a week will be permitted to take five separate days off on vacation in lieu of one week of vacation entitlement.



NATHAN COHEN,
Public Panel Member and Chairman

PATRICK J. MANGAN, JR.,
Employee Organization's Panel
Member
(Concurring) (Dissenting)

WILLIAM HOLCOMB,
Employer Panel Member
(Concurring) (Dissenting)

STATE OF NEW YORK
COUNTY OF Nassau ss:

On this 9th day of September before ^{me} personally appeared NATHAN COHEN to me known and known to me to be the individual described herein and who executed the foregoing instrument and he acknowledged to me that he executed the same.


Jonja Lenhari
Notary/Public

JONJA LENHARI
NOTARY PUBLIC, State of New York
No. 52-2308785
Qualified in Suffolk County
Commission Expires March 30, 1977