

NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD, ADMINISTRATOR

NYS PUBLIC EMPLOYMENT RELATIONS BOARD
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CONCILIATION

In the Matter of the Interest Arbitration

between

THE CITY OF TROY

and

THE TROY UNIFORMED FIREFIGHTERS
ASSOCIATION, LOCAL 2304, IAFF

AWARD OF THE PUBLIC
ARBITRATION PANEL

Case No. IA84-30, M84- 326

BEFORE Alice B. Grant, Public Panel Member and Chairperson
Alson J. Spain, Employer Panel Member
James J. McGowan, Employee Organization Panel Member

APPEARANCES

For the City: Robert E. Gray, Esq.
For the Union: J. Albert Barsamian, Esq.

A hearing in the above matter was held in the administrative offices of the Public Employment Relations Board in Albany, New York, on April 25 and May 6, 1985 before the undersigned members of the Public Arbitration Panel who were designated in accordance with the statutory provisions applicable to compulsory interest arbitration pursuant to civil service law, section 209.4 (as amended July 1, 1977). At this hearing both parties were given full opportunity to present their evidence, testimony, and argument, to summon witnesses who were sworn, and to engage in their examination and cross-examination.

The Public Arbitration Panel met in a pre-hearing administrative session to determine the procedure to be followed and decided not to require a transcript of the hearing. Following the close of the hearing the Panel met in executive session at which time it decided to allow further time for the parties to attempt to reach agreement based on the evidence and testimony presented at the hearing. During this period the Panel members kept in touch with each other by telephone. Since the parties could not reach agreement the Panel issued the following Award which is based on the consideration of the evidence, testimony and argument presented at the hearing in relation to the following statutory criteria set forth in section 209.4 of the Taylor Act:

(v) the public arbitration panel shall make a just and reasonable determination of the matters in dispute. In arriving at such determination, the panel shall specify the basis for its findings, taking into consideration, in addition to any other relevant factors, the following:

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 employment 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. the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

DISCUSSION AND AWARD ON THE ISSUES

After consideration of the above criteria and other relevant factors of significance to the labor relations of the City and the Union, the Panel reached a decision on the following issues:

SALARY ADJUSTMENT

In defense of its wage offer of a 6% increase for 1985 the City presented many exhibits in which it compared its firefighter salaries with those in cities such as Binghamton, Buffalo, Elmira, Long Beach, Rome and Utica (Employer Exhibit #11, et al). Upon careful examination the panel finds that these comparisons are unsuitable for a number of reasons and that the obvious comparable cities are those of Albany and Schenectady. The rationale for choosing these cities is based

on two factors: first, the three cities are contiguous and, second, they constitute one of the ten Metropolitan statistical areas in Upstate New York included in the economic studies of the New York State Department of Labor. Although the City of Albany has a larger population and constitutes a larger area, both Schenectady and Troy are similar in population and each occupies 10.2 square miles.

The similarities between Schenectady and Troy, however, are not reflected in the salaries paid to their firefighters. Schenectady firefighters at the top grade presently receive an annual salary of \$24,632 and Albany firefighters receive \$23,341. With the 6% increase offered by the City in this year's bargaining the Troy firefighters would receive \$21,861 which would be \$1094 less than Albany and \$2358 less than Schenectady firefighters receive.

This might be justified were there special mitigating circumstances. In a careful examination of the City's testimony, however, we do not find evidence which would justify this disparity between the three cities salaries paid to firefighters. At no time in the hearing did the City argue inability to pay. It argued, instead, that a 6% increase was more than adequate in view of the percentage increases received this year by other employees, both in the public and private sectors. This would be a strong argument were it not for inequality which exists between Troy firefighters and Albany and Schenectady firefighters.

In addition to the evidence in regard to comparability of salaries, it is important to look at other evidence of economic conditions. In December, 1984 the City Manager submitted a lengthy report to the Mayor and the City Council pointing out that "the Exempt personnel have not fared as well as other City employees" (Employer Exhibit #24). To correct these inequities a new step plan was proposed in addition to raises of 8 to 10%. At the same time the City Manager received a 14% increase and the City Council members a 25% increase. By citing these increases there is no intent to disparage the administration of the City; in fact, all of the evidence demonstrates that the City of Troy is going through a period of rejuvenation in which it can take great pride. Moreover it is accomplishing its goals while holding the line on taxes and at the same time reporting a fiscal surplus in each of the last two years.

The economic growth in the Albany-Schenectady-Troy area is also confirmed by the statistics prepared by the Division of Research and Statistics in the New York State Department of Labor. In its examination of the evidence the panel took judicial notice of the Department of Labor's research documents. These show that in 1984 among the upstate labor areas the largest percentage job gains (4.8%) were reported by the Albany-Schenectady-Troy area (Employment Review; 1984 in Review, February 1985, page 10). This year the area continues to show job gains and the Albany-Schenectady-Troy Labor Area Summary for May, 1985 states that the employed residents in the area "rose

by 2,400 to 381,600-- record high for the month." At the same time the jobless total was "nearly 10,000 fewer than two years earlier." The April 1985 rate of employment for the area was 4.8% which compares favorably with the 5.6% rate in April, 1984 (New York State Department of Labor News, May 31, 1985).

These economic indicators combined with the particular success of Troy's own revitalization program provide convincing evidence that its firefighters merit a catch-up increase over and beyond the 6% offered by the City. The panel, therefore, finds that firefighter salaries shall be increased by 8% for the 1985 contract year. It should be noted that even with this increase the Troy firefighters will receive less in salaries than those in Albany and Schenectady

EMERGENCY MEDICAL SERVICES

Both the City of Troy and the firefighters are justifiably proud of the emergency medical services provided by the Fire Department. Sixteen firefighters are trained as Paramedics for which they presently receive a salary increment of \$200. Another ninety or so firefighters have received training as Emergency Medical Technicians for which they receive no extra payment, although, of course, their training courses are paid for by the City.

Dr. Robert Athanasiou, Director of the Emergency Department at the Troy Hospital, testified that the firefighters provide an outstanding service to the community, on which the medical personnel has come to rely. In addition to the initial training program and certification it is necessary for the firefighters to continue training and to take refresher courses to qualify for recertification.

These programs provide a unique and important contribution to the citizens of the community. For this reason those firefighters who volunteer for the emergency medical training should receive additional pay. The panel, therefore, finds that each firefighter who is certified as an Emergency Medical Technician shall receive a \$300 bonus on an annual basis. Those firefighters who are certified as Paramedics shall receive a \$500 bonus per year.

REMAINING ISSUES

At the hearing the parties jointly stipulated the issues before the panel (Joint Exhibit #1). In addition to the issues on the salary increase and premium pay for certification as an EMT or Paramedic, the Union proposed changes in sick leave policy, uniform allowance, and vacation policy.

Each of these proposals bears an economic cost. The panel decided, based on the criteria set forth in the Taylor Act and on the testimony and evidence presented at the hearing, that it was most appropriate to bring up the salary scale of the firefighters and to reward those firefighters who are increasing the professionalization of firefighting through advanced medical training. By far the greatest weight of the evidence and testimony related to these two issues. Although the remaining issues may be of equal importance to the Firefighters, they are now in negotiations for the 1986 collective bargaining agreement and can, therefore, continue to bargain on them if they so chose.

For these reasons the panel is limiting its Award to the above mentioned issues and is not reaching a decision on any of the remaining issues.

A W A R D

This Award constitutes the entire settlement of the collective bargaining agreement for the period of January 1, 1985 through December 31, 1985.

Dated: July 10, 1985 Signed: Alice B. Grant
Alice B. Grant
Neutral Public Member
and Chairperson

STATE OF NEW YORK }
COUNTY OF MONROE } SS:

On this 10 day of July, 1985, before me personally came and appeared ALICE B. GRANT, to me known and known to me to be the individual described herein and who executed the foregoing instrument and she acknowledged to me that she executed the same.

Teresa M. Knapp

TERESA M. KNAPP
NOTARY PUBLIC State of N.Y. Monroe Co.
My Commission Expires March 30, 1987

DISSENTING, WITH OPINION ATTACHED:

Dated: SEPT. 3, 1985 Signed: Alson J. Spain, Jr.

STATE OF NEW YORK
COUNTY OF Rensselaer ss:

September
On this 3rd of ~~July~~, 1985 before me personally came and appeared Alson J. Spain, 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.

Robert E. Gray

ROBERT E. GRAY
Notary Public in the State of New York
No. 43-4602937
My Commission Expires March 30, 1987

DateD: July 29, 1985 Signed: James McGowan
"I CONCUR"

STATE OF NEW YORK
COUNTY OF New York

On this 5th of July, 1985 before me personally came and appeared James J. McGowan, 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.

Antonio P. Morelli

ANTONIO P. MORELLI
Notary Public, State of New York
No. 43-4602937
Qualified in Richmond County
My Commission Expires March 30, 1987

ALSON J. SPAIN, Jr., Employer Panel Member, Dissenting Opinion

I dissent from the opinion and award of arbitrators Grant and McGowan as to the amount of the salary increase. I would award six percent (6%). The eight percent (8%) increase is excessively high when compared to the 1985 increases given firefighters throughout New York State (that figure approximating five-and-one-half percent [5.5%]) and compared to the increase in the Consumer Price Index approximating five percent (5%) for the twelve-month period preceding the award.

In an attempt to justify their exorbitant award, the majority resort to incomplete and irrelevant data. Cited is a report issued by New York State Department of Labor concerning unemployment in the Capital District. Arbitrator Grant, the sole author of the award, states that the panel took judicial notice of the Labor Department's research documents. This is just not the fact; it is pure fiction. The document referred to was not available to either party to the proceeding for comment, criticism, or counter and, in fact, was never seen or discussed by the panel. The document relied upon, dated 31 May 1985, was not in existence until three weeks after the last hearing date (6 May). That the award is defective is apparent on its face and constitutes an insult to the much relied on public process.

In further attempt to justify the award the majority compare Troy firefighters' salary to those of Schenectady and Albany because

first, they are contiguous and second, they constitute one of the ten Metropolitan statistical areas in Upstate New York....

After establishing the "contiguous" and "statistical area" standard, the panel lost sight of the six-and-one-half percent average increase for 1985 experienced by Schenectady and Albany firefighters and ignored the other contiguous cities in the same statistical area.

Aside from the embarrassingly contorted and defective reasoning in strained justification, the award ignores the realities of the times.