

#408

## ARBITRATION

COUNTY OF ADAMS  
EMPLOYER

CASE NO. S-MA-09-018  
INTEREST ARBITRATION

vs.

I.A.M.A.W. DISTRICT No. 9  
LOCAL 822

JAMES A. MURPHY,  
ARBITRATOR

## OPINION AND AWARD

### APPEARANCES:

For the Employer: Curtis T. Lovelace

For the Union: Ross Miller

April 21, 2009



## **BACKGROUND**

The County of Adams (County) is located in west central Illinois with the court house located in the County seat of Quincy, Illinois. The International Association of Machinists and Aerospace Workers District 9, Local 822 (Union) currently represents and has represented for approximately 11 years last past, five separate bargaining units of employees in the court house offices of the State's Attorney, Treasurer, County Clerk, County Recorder and Sheriff. There are four additional Machinist units in the courts area, which are not at issue here since they are under the Chief Judge rather than the County Board. The Adams County Sheriff's Department is comprised of five bargaining units: the so-called non-merited employees which includes clerical, maintenance, cook, animal control and SWAP all of whom are represented by this Union; and the merit or commissioned employees who comprise four bargaining units made up respectively of deputies, sergeants, corrections officers and court personnel all of whom are represented by the Fraternal Order of Police.

Negotiations for a successor contract with the five Machinist Units began in mid 2007. Prior to this round of bargaining, all five Units bargained together. In this round the Union elected to bargain each Unit separately. It is only the Sheriff's Office Machinist Unit that is involved in this arbitration. The other four Units have settled and are working under their respective collective bargaining agreements with the County, all of which are substantially the same. It is only the wage/longevity proposals that are at impasse here. The Union had proposed for the first time instituting longevity pay in all five Units, but has dropped that demand in the other four and is now requesting longevity only in this Unit. The County has declined to accept this proposal, and is offering the same wage package the other four Units have agreed to.

## **RELEVANT STATUTES**

### **Section 315 Illinois Public Labor Relations Act.**

(5 ILCS 315/14) (from Ch. 48, par. 1614)

**Sec. 14. Security Employee, Peace Officer and Fire Fighter Disputes.**

....

(g) At or before the conclusion of the hearing held pursuant to subsection (d), the arbitration panel shall identify the economic issues in dispute, and direct each of the parties to submit, within such time limit as the panel shall prescribe, to the arbitration panel and to each other its last offer of settlement on each economic issue. The determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive. The arbitration panel, within 30 days after the conclusion of the hearing, or such further additional periods to which the parties may agree, shall make written findings of fact and promulgate a written opinion and shall mail or otherwise deliver a true copy thereof to the parties and their representatives and to the Board. As to each economic issue, the arbitration panel shall adopt the last offer of settlement which, in the opinion of the arbitration panel, more nearly complies with the applicable factors prescribed in subsection (h). The findings, opinions and order as to all other issues shall be based upon the applicable factors prescribed in subsection (h).

(h) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, and wage rates or other conditions of employment under the proposed new

or amended agreement are in dispute, the arbitration panel shall base its findings, opinions and order upon the following factors, as applicable:

(1) The lawful authority of the employer.

(2) Stipulations of the parties.

(3) The interests and welfare of the public and the financial ability of the unit of government to meet those costs. (4) 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 and with other employees

generally: (A) In public employment in comparable communities. (B) In private employment in comparable communities. (5) The average consumer prices for goods and services, commonly

known as the cost of living. (6) The overall compensation presently received by the employees, including direct wage compensation, vacations, holidays and other excused time, insurance and

pensions, medical and hospitalization benefits, the continuity and stability of employment and all other benefits received. (7) Changes in any of the foregoing circumstances during the pendency

of the arbitration proceedings. (8) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and

conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

## FINAL OFFERS OF THE PARTIES

### FOR THE COUNTY:

#### Article 22 "Wages" (Page 27):

First year wage increase of four percent (4%)

Second year wage increase of three percent (3%)

Third year wage increase of three and one quarter percent (3 1/4%)

Prior contract grid and classifications will remain the same. Animal Control and Animal Control Assistant would be placed on the grid by mutual agreement of the Union and the County based upon years of experience and service to the county.

### FOR THE UNION

#### MACHINISTS PROPOSED WAGES

	3% 12/1/07	3% 12/1/08	3% 12/1/09
Start	\$10.17	\$10.48	\$10.79
After 1 Year	\$11.11	\$11.44	\$11.78
After 2 Years	\$12.13	\$12.49	\$12.86
After 3 Years	\$13.25	\$13.65	\$14.06
After 4 Years	\$14.48	\$14.91	\$15.36
After 5 Years	\$15.82	\$16.29	\$16.78

Longevity: Effective 12/ 1/07, starting with the beginning of the sixth (6<sup>th</sup>) year of service with the County, each employee shall receive an additional \$.05 per hour for each year of service added to their base rate of pay.

All employees shall receive increases of three percent (3%) each year.

All employees will receive the same benefits as the other I.A.M.A.W. contracts with the County except for the above wages.

All increases will be retroactive to December 1, 2007.

The following employees shall be set at the following rates:

	<u>12/1/07</u>	<u>12/1/08</u>	<u>12/1/09</u>
Karl Peters = Maintenance Spvr.	\$18.79	\$19.35	
	\$19.93		
Jim Fisher = S.W.A.P. Employee	\$17.66	\$18.19	\$18.74
Jenny Benjamin = employee Animal Control Spvr. Group	\$14.48	It is agreed this will remain in the 4 year Group	
until her seniority moves her into the 5 year Group on the above scale			

## DISCUSSION

The issue here is economic. Therefore, Section 14(g) of the Act provides that this is final offer arbitration, and I am limited to choosing either the last offer of the Union or that of the County. Section 14(g) further provides that I adopt the last offer which more nearly complies with the applicable factors set out in Section 14(h). The Act does not require that the same weight be given to each factor, and only those factors which are applicable to this situation need be considered.

In this case the predominant factor to be considered would appear to be internal comparability. The Union argues forcefully to compare the employees in this Unit to those in the four Units of public safety officers represented by the F O P, relying primarily on the fact that the various units work closely together on a day to day basis. This argument, however, fails to address the vast differences in the duties of these respective groups.

In this Unit, Secretaries (3) perform a myriad of duties including clerical, record keeping, reporting, payroll, purchasing, billing, scheduling and assisting in budget preparation. Maintenance employees (4) work in two shifts performing cleaning, repair and maintenance duties and are responsible for seeing that doors are locked at the appropriate times. They report any suspicious activity to the Sheriff's staff (as do other employees in the court house), but do not take any enforcement action. The cook (1) orders, prepares and serves the food for the jail inmates. Depending on availability, she may be assisted by a couple of jail trustees, but she has no responsibility for control of the inmate population. An employee (1) known as the SWAP employee is responsible for taking a

group of inmates who have been screened by the probation department out into the community to do public service work. This individual wears a badge, and has taken a mandatory 40 hour firearms training course. Unlike the Correctional Officers, the SWAP employee has contact only with a select group of inmates who have been determined not to represent a significant threat. Animal control officers (2) wear badges, are armed and have taken a mandatory 40 hour firearms course as well as an additional two weeks of training on handling animals. While they might be called upon to use firearms or mace in handling animals, they are not put into situations where they would be required to use force against human beings. Neither SWAP nor animal control employees are commissioned peace officers.

There was little evidence introduced as to the actual duties of the employees in the other four Machinist Units in the court house. Common experience, however, would suggest that the conditions and duties of the employees in this Unit would be much more akin to duties and working conditions in the offices of the State's Attorney, County Clerk, County Recorder and Treasurer than those of the Sheriff's commissioned units. In fact, the Animal Control position was in the Treasurer's Unit until it was transferred to this Unit during the term of the last Contract.

I find that the appropriate internal comparison is to the other Machinist Units in the court house. In that regard, it is undisputed that none of the five Machinist Units in the court house have ever had longevity. The other four Units, although initially demanding longevity have negotiated out that demand during bargaining, and have settled their contracts on the basis of what is the County's final offer here which does not include longevity.

The Union did introduce excerpts from collective Bargaining Agreements from Piatt, Fayette and Montgomery Counties for purposes of external comparability on the issue of longevity. In addition to the fact that no evidence was introduced to support the actual comparability of these counties (e.g. geographic proximity, population, equalized assessed valuation, tax base, etc.) the excerpts do not show similarity in Unit composition nor a consistent pattern of longevity in addition to a salary step plan as is proposed by the Union here. Therefore, I accord them no weight.

This is not a case where either Party is arguing a major financial impact. The employees will not be in a position of not making a living wage nor is the County pleading inability to pay for the Union's proposal. According to the County's costing out of the two proposals (which was not challenged by the Union), the cost difference over the life of the three year Agreement would be \$33,719.92 (see County Exhibits 2 and 3). It would be naïve, however, to not view this as a door opener for the other Machinist Units both in the court house and in the circuit courts to demand longevity in the next round of bargaining to maintain fairness and equality with the Sheriff's Unit. In that light, the Union's attempt to trivialize the effect of this proposal as only \$11,000 a year is not persuasive.

Interest arbitration is a device to break an impasse only when the parties are unable to reach agreement and they choose not to resort to a job action or they are prohibited by law from doing so. It is axiomatic that interest arbitration is not to be used as a substitute for good faith bargaining between the Parties, and should not be seen by either Party as a means of getting from the arbitrator what they could not achieve at the bargaining table.

As Arbitrator Kerr expressed it in *Pacific Gas & Elec. Co.*, 7 LA 528, 534 (1947), quoted in Elkouri & Elkouri, *HOW ARBITRATION WORKS*, Sixth Edition at p. 1407:

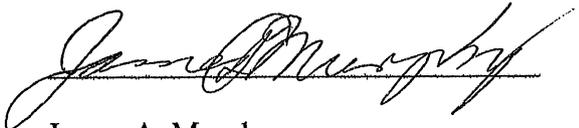
There is no magic formula for wage adjudication. Consequently one of the compelling considerations must be what has happened in free and successful collective bargaining. This indicates how experienced bargainers have evaluated the wage influencing factors which have evidenced themselves, and what they consider to be "just."

Arbitration of primary disputes over the terms of a new contract is a substitute for successful bargaining, and the "pattern" or "package" indicates what might have evolved from successful bargaining had the parties acted like others similarly situated.

In this case the evidence clearly shows that in four other similarly situated Units, these Parties were able to come to agreement on a wage package that did not include longevity but did include higher wage increases than proposed by the Union here. It is true that the F O P negotiated longevity for the merit employees. This is, however, but one difference in the contracts of the two groups. It is to be expected that there would be differentials in wages and benefits between the two groups of employees in a Sheriff's office due to the higher levels of skill and training, responsibility and hazardous working conditions faced by the commissioned personnel. This does not in any way diminish the dignity of the employees in this Unit nor the importance of the work they do. Clearly the Sheriff's Office could not function without them. It is simply a traditional fact that wages and benefits tend to be greater for some employees based on their working conditions rather than their proximity to or frequency of interaction with another group.

## AWARD

Based on a careful analysis of the evidence and arguments of the Parties, I find that the offer of the County more nearly complies with the applicable factors prescribed in Section 14(h). Therefore, the Counties final offer of wage increases of 4% retroactive to December 1, 2007; 3% retroactive to December 1, 2008 and 3.25% effective December 1, 2009 is adopted, and is so ordered. As agreed by the Parties I will retain jurisdiction for 60 days to resolve any issues regarding implementation of the Award.



James A. Murphy  
Arbitrator