
IN THE MATTER OF THE ARBITRATION

BETWEEN

EMPLOYER
CITY OF KEWANEE
KEWANEE, ILLINOIS

AND

UNION
AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES,
AFL-CIO; ILLINOIS COUNCIL 31,
LOCAL 739

ISLRB

INTEREST ARBITRATION

RENEWAL CONTRACT
NINE (9) ISSUES

FINDINGS AND AWARD

PRELIMINARY INFORMATION

RELEVANT EVENTS AND DATES

Parties Engaged in Contract Negotiations on Various Dates Between	March 17, 1986 and May 05, 1986
Parties Entered and Completed Mediated Negotiations	July 01, 1986
Written Confirmation From Illinois State Labor Relations Board (ISLRB) to Arbitrator of His Appointment as Neutral Interest Arbitrator	
Letter Dated	September 04, 1986
Letter Received by Arbitrator	September 08, 1986
Parties Mutually Agreed to Waive the Fifteen (15) Day Time Requirement for Commencing the Hearing Pursuant to Section 1230.40(e)(4) <u>Illinois Public Relations Act,</u> in Order to Accommodate Scheduling Needs (Jt. Ex. 3)	September 26, 1986
Hearing Held	October 01, 1986

Parties Elected to Waive the Filing of Post-Hearing Briefs in Favor of Making Closing Oral Argument *	October 01, 1986
Transcript of 299 Pages Received by Arbitrator via Certified Mail	October 31, 1986
Record of Proceedings Declared Closed by Arbitrator by Letter to the Parties as of	October 31, 1986

CASE PRESENTATION - APPEARANCES

EMPLOYER

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ANDREWS, EASTMAN AND KERR
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UNION

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AFSCME, Illinois Council 31
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PARTISAN MEMBERS, INTEREST ARBITRATION PANEL

EMPLOYER DELEGATE

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Mayor, City of Kewanee
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* At the conclusion of closing argument, the parties further mutually agreed to waive the thirty (30) day time requirement for rendering the Award pursuant to Section 1230.40(e)(7) Illinois Public Labor Relations Act, in recognition of the voluminous record developed in conjunction with the issues presented for determination (see Tr. pp. 297-298).

LOCATION OF HEARING

Kewanee City Hall
200 West Third Street
Kewanee, Illinois 61443

AUTHORITY TO ARBITRATE

Illinois Public Labor Relations Act (Supp. to Ill.Rev.Stat.
1983 ch. 48, par. 1601 et seq).
Title 80: Public Officials and Employees Subtitle C:
Labor Relations
Chapter IV: Illinois State Labor Relations Board/Illinois
Local Labor Relations Board
Part 1230 Impasse Resolution
Section 1230.40 Impasse Resolution in Units Containing
Section 14 Employees
Section 1230.40(e) ¶s 1 through 11, pages 26-28,
Rules and Regulations (January 25, 1985)

WITNESSES (in respective order of appearance)

FOR THE EMPLOYER

JUNE FRAZIER ROLLINS
Certified Public Accountant

PAULA REDENIUS
Deputy City Clerk

CHARLES WARRINER
City Council Member

CHARLES EASTMAN
City Attorney

FOR THE UNION

ANN GILL
AFSCME Staff Representative

MICHAEL J. PTASNIK
Sergeant, Kewanee
Police Department and
Acting Chief of Police

JOSEPH CERVANTEZ
Patrolman and President,
Local 739

OTHERS IN ATTENDANCE AT HEARING

FOR THE EMPLOYER

NONE

FOR THE UNION

RICK MATUSZYK
Acting Sergeant

STIPULATIONS

At the outset of the hearing, the parties presented the following stipulations in writing to the three (3) Members of the Interest Arbitration Board (Jt. Ex. 2):

1. The City of Kewanee is the Employer in the instant proceedings.
2. Council 31 and Local 739 of AFSCME constitutes the historically-recognized exclusive representative of all the employees of the Kewanee Police Department, excluding the Chief of Police.
3. The existing collective bargaining agreement between the parties is effective for the period May 1, 1983 through April 30, 1986. This agreement has been mutually extended pending the outcome of the instant proceedings.
4. The parties have agreed to a one-year contract, to commence at the completion of the instant proceedings. This contract shall continue all terms of the 1983-1986 contract, with the exception of the items being litigated in this Arbitration.
5. The issues before the Arbitration Panel are insurance, sick leave, wages, overtime, termination pay, ** longevity, court time, and clothing allowance. The parties' final offers are identified by separate exhibits.
6. Negotiations -- took place in 1986 on March 17, April 9, April 24, May 1, May 5, and July 1. Mediator Peter Myers was present at the July 1 session.
7. The titles included in the instant bargaining unit shall be governed by these proceedings, which shall be held in accordance with the Illinois Labor Relations Act interest arbitration provisions and regulations.

** Termination Pay was not presented as an issue before the Interest Arbitration Panel.

ISSUES AT IMPASSE

Discussions at the hearing revealed there was no dispute between the parties regarding either the specific number of issues at impasse or their respective substantive positions relative to same. According to the evidence adduced, the following constituted the issues to be determined by the Interest Arbitration Panel.

- A. Article V - Overtime
 - Section 1 - Rate of Pay
 - New Language - Court Overtime

- B. Article VI - Wages
 - Section 1 - Wage Schedule
 - Section 4 - Court Time
 - Section 5 - Longevity
 - Section 7 - Clothing Allowance

- C. Article X - Sick Leave
 - Section 1 - Allowance for Police Officers
 - Section 2 - Allowance for Telecommunications

- D. Article XIII - Insurance
 - New Language - Contributions for Newly Hired Employees

All of the above-referenced issues involve changes to provisions contained in the previous Collective Bargaining Agreement effective May 1, 1983 and expiring April 30, 1986 (Jt. Ex. 1). Pursuant to the aforesaid stipulations, specifically, Stipulation Number 3, the parties have, by mutual agreement, extended this Agreement, pending the outcome of this arbitral proceeding. Additionally, all issues before the members of the Interest Arbitration Panel are deemed to be economic items.

FINDINGS AND AWARD

A. ISSUES, RE: ARTICLE V - OVERTIME

ISSUE NUMBERS 1 & 2

Section 1 - Rate of Pay

CURRENT PROVISION

Time and one-half the employee's regular hourly rate of pay or compensatory time off at the employee's option as defined below, shall be paid for work under any of the following conditions, but compensation shall not be paid twice for the same hours:

- a. All work performed in excess of eight hours in any work day.
- b. All work performed in excess of 40 hours in any work week.
- c. All work performed before or after any scheduled work shift.

PARTIES' POSITIONS

EMPLOYER

The Employer seeks to modify the current provision in two ways, each of which shall be treated as an issue of independent standing for purposes of this decision. These two (2) changes are as follows:

1. That overtime be calculated based upon a 40 hour week, rather than on a calculation of daily hours in excess of eight (8).
2. Overtime to be paid in compensatory time off pursuant to the provisions of the Fair Labor Standards Act instead of monetary compensation, to a maximum accumulation of 480 hours.

UNION

The Union seeks to retain the current provision with no modifications.

DISCUSSION

ISSUE NUMBER 1

Although we are cognizant of the fact that the current provision was negotiated prior to the extension of the Fair Labor Standards Act (FLSA) to state and municipal employees, nevertheless, we are persuaded that the contractual obligation of having to compensate overtime on a daily basis imposes an additional burden on this Employer not contemplated by FLSA and therefore is not in keeping with the intent of the Act. Requirements imposed on employers under FLSA mandate that employees who work more than 40 hours in a 168 hour, seven (7) consecutive day workweek, must be compensated either by monetary payment or time off at the rate of time and one-half (1 1/2) for all hours in excess of 40 hours. With provisions of FLSA now controlling in the area of overtime we rule affirmatively on the change proposed by the Employer to calculate overtime based on a 40 hour week. Accordingly, we direct that sub-section (a) of Section 1, Article V, be entirely deleted from the provision.

ISSUE NUMBER 2

Without question, we deem this issue to be supreme in terms of relative importance of all the issues presented to us as the finding here has the greatest potential economic impact on the parties. We are convinced beyond doubt from the wealth of statistical evidence submitted and the testimony proffered that the City is confronted with budgetary problems and must now seek ways in which to remedy what it considers to be a financial crisis. At the same time, we are convinced that bargaining unit employees of Kewanee's Police Department have experienced economic consequences of their own in terms of an erosion of purchasing power as a result of incremental increases in base salary that have been less than the rate of inflation over the years and a loss of relative pay status vis-a-vis police officers employed in surrounding governmental units. Given this situation, we are not persuaded that the change to Section 1, Article V, here sought by the City will provide the type of economic relief that will ameliorate its budgetary problems in the long-run. We know from the arguments presented that in the short-run, the City will expend less money for police services if employees were obligated to take the first 320 hours of overtime in compensatory time off which translates into 480 hours when the appropriate time and one-half (1 1/2) rate is applied, as a number of part-time employees could be added to the force and paid at straight-time rates. This approach however is fraught with many pitfalls such as, a decline in employee morale, a decrease in the quality of police services to the community and potentially a loss in revenues to the City based on fewer citations being issued as a direct result of lower employee morale and a discontinuity of services due to an increase in part-time staff.

We are of the view that, in an area such as overtime, which is subject to the complete discretion and control of management, it is unreasonable to require the employees of a specific department to subsidize the operations in part of an entire municipal budget, particularly when such relief has only salutary effects in the short-run and does very little or nothing to contribute to a long-run solution of the problem. This sentiment is not meant to in any way discredit the short-run economic benefits inuring to a municipality where employees of a particular city department such as the Kewanee Fire Fighters voluntarily agree through negotiations to grant such relief. At the same time, however, it should be kept in mind that the operation of a Fire Department is very different from a Police Department particularly with respect to scheduled shift hours. Thus such economic relief may be more appropriate when obtained from a Fire Department rather than from a Police Department which is typically operated, such as in the City of Kewanee, on the basis of eight (8) hour shifts as opposed to the twenty-four (24) hour duty of fire fighters. We are of the view that the City of Kewanee has a myriad of options it can exercise in resolving its budgetary problems other than the one it seeks to impose on the employees of the Police Department, whereas the employees have no options available to them to address the loss of discretion now contractually guaranteed to them in terms of electing which form of compensation they prefer to receive for overtime worked if the City's proposal were to prevail. Unlike our finding in Issue Number 1 above, we find that the current language of Section 1, Article V, is compatible with FLSA as it applies to state and municipal governments in that it permits governmental employees to compensate employees for overtime worked either by monetary payments or by compensatory time-off or implied, by a combination of both. With this being the case coupled with our belief that the employees will suffer a greater loss as a result of the change the City seeks than the City will suffer as a result of the provision remaining the same, we rule to affirm the Union's position on this issue. Accordingly, we direct the parties to retain the current language which permits employees the option of electing either to receive monetary payments or compensatory time-off for overtime worked. In keeping with the ruling on Issue Number 1, it is understood that such entitlement to either form of compensation shall be based on hours in excess of 40 per work week.

ISSUE NUMBER 3

NEW PROVISION

Overtime accumulated as a result of court appearance shall be recorded as compensatory time and used at the mutual agreement of the Chief of Police and the employee. Any such overtime on the record at the first day of every month shall be paid in cash to the employee on the next payday.

PARTIES' POSITIONS

UNION

The Union proposed to add this language as a new provision under Article V. As a point of clarification, it is the Union's position that if overtime accrued as a result of court time that occurred at the end of the month thereby precluding an opportunity to grant the employee compensatory time-off before the beginning of the next month, the City would be contractually obligated to compensate the employee with a monetary payment.

EMPLOYER

The Employer opposes the addition of this new provision. The Employer argues that police officers are in court on a regular basis during all times in a month and that as a result, monetary payments are certain to occur. Such a provision, the Employer claims, will just exacerbate its already poor financial circumstances.

DISCUSSION

With no practical opportunity on the Employer's part to make scheduling adjustments in court appearances coupled with our findings with respect to Issue Number 2 above, we hold to affirm the Employer's opposition to this newly proposed provision. Accordingly, we direct the parties not to include this provision in the 1986-87 Agreement.

B. ISSUES, RE: ARTICLE VI - WAGES

ISSUE NUMBER 4

Section 1 - Wage Schedule

CURRENT PROVISION

Employees shall be compensated in accordance with the wage schedule attached to this agreement and marked Appendix A. The attached wage schedule shall be considered a part of the agreement.

APPENDIX A

1983-84: All employees shall receive \$150.00 in July, 1984 and \$150.00 in December, 1984 on a separate check not added to their base pay.

<u>Police Officers Salaries</u>	<u>1984-85</u>	<u>3½%</u>	<u>1985-86</u>	<u>3½%</u>
Patrolman.....	\$1,543.44	Per Mo.	\$1,597.46	Per Mo.
Investigator.....	1,570.02	"	1,624.97	"
Sergeant.....	1,596.59	"	1,652.47	"
Lieutenant.....	1,648.44	"	1,706.14	"
Captain.....	1,724.65	"	1,785.01	"
<u>Telecommunicators Salaries</u>	<u>1984-85</u>	<u>\$900.00</u>	<u>1985-86</u>	<u>\$900.00</u>
	<u>on Base Pay</u>		<u>on Base Pay</u>	
Telecommunicators.....	\$ 872.08	Per Mo.	\$ 947.08	Per Mo.
Supervisor.....	1,123.41	"	1,198.41	"

PARTIES' POSITIONS

EMPLOYER

The Employer proposes additional language under this Section, to-wit:

Newly, hired employees that is, those employees hired after the signing of the 1986-87 Contract, shall be paid one hundred dollars (\$100.00) less per month than the current patrolman's salary for a period of three (3) years at which time he will be paid the then current patrolman salary. If, within this initial three (3) year period of employment, the employee is promoted, the employee shall continue to be paid one hundred dollars (\$100.00) less per month than the salary of the position promoted to.

Such position is advanced by the Employer on the same economic grounds as that advanced for the overtime issues.

UNION

The Union offers as a counter-proposal the following:

New employees to be paid fifty dollars (\$50.00)
less per month for initial year of employment.

The Union advances the argument that its proposal should be adopted as sufficient economic relief for the City in view of the fact that it granted the City a very significant concession by agreeing to a wage freeze for current employees for the 1986-87 Contract.

DISCUSSION

In recognition that two-tier wage schedules are viable given their increasing popularity and use and persuaded that this represents one of the options available to the City to address its budgetary problems, we hold to accept the Employer's proposal. We, however, state for the record two caveats with respect to such provision, to-wit: (1) A possible negative effect on morale of second and third year employees; and (2) A possible negative effect on the ability to hire qualified personnel in the future. In accordance with our finding, we direct the parties to include the Employer's proposal as additional language to be included in Section 1 of Article VI.

ISSUE NUMBER 5

Section 4 - Court Time

CURRENT PROVISION

Police Officers shall be paid for transportation to and from Court and for the time spent in Court when the attendance is required during an Officer's off-duty hours. Court time shall be paid at time and one-half (1 1/2) the Officer's base rate of pay.

PARTIES' POSITIONS

UNION

The Union proposes to add the following provision to Section 4, to-wit:

Minimum of four (4) hours call-in pay at overtime rate for court appearances.

EMPLOYER

The Employer rejects the minimum four (4) hours of call-in pay proposed by the Union. Additionally, the Employer proposes to make the following change to Section 4, to-wit:

Court time shall be paid at straight-time rather than at the present rate of time and one-half.

DISCUSSION

Given the rationale advanced by the Union that the proposal of call-in pay was meant to compensate officers that made court appearances on their off-days, we find we could have accepted this proposal as meritorious except for the fact of the overtime rate. Such proposal strikes us as overly punitive and we therefore rule to reject the Union's position. On the matter of the Employer's proposal to modify Section 4 of Article VI which we find to be separate and distinct from the Union's proposal regarding this Section, we find we could have accepted this proposal too had it not been for the fact of its general application to court appearances by both officers on their off-days and officers working their regularly scheduled shift. Since no distinction was made between these two groups of officers which we believe should be treated differently with respect to pay in conjunction with court appearances, we rule to reject the Employer's proposal as well. Accordingly, we direct the parties to retain the language of Section 4 as it currently reads.

ISSUE NUMBER 6

Section 5 - Longevity

CURRENT PROVISION

Each and every member of the Police Department after being employed for five (5) years shall receive longevity pay at the rate of three dollars fifty cents (\$3.50) per month for each and every year thereafter. Starting at seventeen dollars fifty cents (\$17.50) per month on the start of the sixth (6) year. Twenty (20) year maximum on longevity.

PARTIES' POSITIONS

EMPLOYER

For economic reasons, the Employer proposes to eliminate this benefit.

UNION

The Union proposes to retain this benefit on the grounds that it is a common benefit granted to employees of police departments and that the present benefit is a comparatively average one relative to the monetary amount.

DISCUSSION

Absent a showing by the Employer that elimination of this typical benefit would substantially assist it in an effort to reverse its financial difficulties coupled with the fact that such a benefit helps to enhance the modest salaries paid to employees of the Kewanee Police Department, we rule to affirm the Union's position on this proposal. Accordingly, we direct the parties to retain this provision as it is currently set forth in the present Agreement (Jt. Ex. 1).

ISSUE NUMBER 7

Section 7 - Clothing Allowance

CURRENT PROVISION

The City shall furnish the officers of the Police Department all police equipment, and such other equipment as have been furnished to the personnel of the department in the immediate past. In addition the City will credit two hundred twenty-five (\$225.00) per year per officer a uniform allowance payable upon presenting a receipt for clothing purchased. Any portion of the credited uniform allowance not used will be added to next year's allowance. An officer leaving the City employment shall forfeit any credited uniform allowance. The City shall replace all clothing which is ruined while on duty.

PARTIES' POSITIONS

UNION

The Union proposes to increase this allowance from \$225.00 per year to \$275.00 per year.

EMPLOYER

The Employer proposes to keep the allowance at its present benefit level of \$225.00 per year.

DISCUSSION

Absent any compelling arguments by the Union in support of its position to raise this benefit by fifty dollars (\$50.00) annually, we rule to reject the Union's proposal. Accordingly, we direct the parties to retain this provision as it is currently set forth in the present Agreement.

C. ISSUES, RE: ARTICLE X - SICK LEAVE

ISSUE NUMBER 8

Sections 1 & 2. Allowance for Police Officers and Telecommunicators

CURRENT PROVISIONS

Section 1. Allowance for Police Officers

All Police Officers shall be credited with thirty (30) days sick leave upon their appointment to the Police Department. They shall earn additional sick leave at the rate of two (2) working days per month for each month of employment, to a maximum of one hundred twenty-five (125) working days.

Section 2. Allowance for Telecommunicators

All Telecommunicators shall be credited with two (2) days sick leave after completing thirty (30) days of service. They shall earn additional sick leave at the rate of two (2) working days per month each month of employment, to a maximum of 125 working days.

PARTIES' POSITIONS

EMPLOYER

The Employer proposes to make the following modifications to Sections 1 & 2 alike, to-wit:

- (1) Reduce the number of sick leave days earned per month from two (2) to one (1), thus resulting in a total of twelve (12) sick days per year.

- (2) Freeze accumulation of sick days for current employees.
- (3) Eliminate accumulation of sick days for new employees.

UNION

The Union proposes additional language which addresses the sick leave benefit for newly hired employees. The Union advances the following proposal:

New employees accumulate one (1) day per month for the first four (4) years of employment. Increase to two (2) days per month the fifth year, with a maximum accumulation of 125 days. Eliminate initial thirty (30) days.

DISCUSSION

We are persuaded, in the absence of evidence to the contrary, that the present level of sick leave benefits were secured in negotiations over the years as a result of trade-offs relative to other financial gains such as certain increases in wages. Absent any showing by the Employer that the present level of sick leave benefits deviates from the average in surrounding governmental units we are of the view these benefits for current employees should be left unaltered. In the alternative, we accept the Union's proposal to add to the existing provision the language which addresses this benefit for new employees. Accordingly, we rule to affirm the Union's position on this issue and direct the parties to incorporate the proposed changes.

D. ISSUES, RE: ARTICLE XIII - INSURANCE

ISSUE NUMBER 9

Section 1. Regular Employees

CURRENT PROVISION

The employer shall pay the total cost of the premium for the Group Hospitalization, Medical and Life Insurance, for all regular employees and their dependents.

PARTIES' POSITIONS

EMPLOYER

The Employer proposes to add to the Section a provision which addresses the contributions applicable to newly hired employees. This proposal is as follows:

New employees, that is, those hired after the 1986-87 Contract is signed will pay fifty percent (50%) for either individual coverage or dependent coverage for the first four (4) years of their employment. Starting in the fifth year and ending at the completion of their seventh year of employment, said employees will pay twenty-five percent (25%) for either individual or dependent coverage. Commencing their eighth year of employment, and thereafter, the City will pay one hundred percent (100%) of the premium cost.

UNION

The Union also proposes to add to the Section a provision addressing the contributions applicable to newly hired employees. This proposal is as follows:

New employees will pay either twenty-five dollars (\$25.00) a month for the first two years of their employment for individual coverage, or fifty dollars (\$50.00) a month for dependent coverage. In the third and fourth year of their employment, said employees will pay either twelve dollars and fifty cents (\$12.50) a month for individual coverage or twenty-five dollars (\$25.00) for dependent coverage. Commencing the fifth year of their employment and thereafter, the Employer will pay one hundred percent (100%) of the premium cost.

DISCUSSION

Given the fact of existing modest salaries and our ruling under Issue Number 4 upholding even lower salaries for newly hired employees, we are not predisposed toward burdening this group with more reductions in take home pay than is absolutely necessary. Accordingly, based on our judgment that the Union proposal imposes less of a burden on newly hired employees with respect to this benefit than does the Employer's proposal, we opt to affirm the Union's position on this issue. Accordingly, we direct the parties to incorporate the Union's addition to this provision for the 1986-87 Agreement.

SUMMARY OF RULINGS

A. ARTICLE V - OVERTIME

ISSUE NUMBER ONE

Sub-section (a) of Section 1 to be deleted from the provision in its entirety.

ISSUE NUMBER TWO

Retain current language permitting employees the option of electing either to receive monetary payments or compensatory time off for overtime worked.

ISSUE NUMBER THREE

Reject Union's proposal

B. ARTICLE VI - WAGES

ISSUE NUMBER FOUR

Accept Employer's proposal

ISSUE NUMBER FIVE

Reject Union's proposal
Reject Employer's proposal

ISSUE NUMBER SIX

Retain longevity pay

ISSUE NUMBER SEVEN

Reject Union's proposal

C. ARTICLE X - SICK LEAVE

ISSUE NUMBER EIGHT

Reject Employer's proposal
Accept Union's proposal

D. ARTICLE XIII - INSURANCE

ISSUE NUMBER NINE

Accept Union's proposal

CONCLUSION

After a thorough review of the matters contained herein, both parties have waived their right to file either a concurring and/or dissenting opinion.

There being no further issues at impasse, the Members of the Interest Arbitration Panel declare these proceedings closed and orders that this Award be implemented by the parties at once.

CONCURRING

Paul Booth
CONCURRING

Alfred Hill
DISSENTING

DISSENTING

ALFRED HILL, MAYOR
Employer Delegate

PAUL BOOTH, AFSCME
Union Delegate

George Edward Larney
GEORGE EDWARD LARNEY
Neutral Interest Arbitrator
& Chairman, Interest Arbitration Panel

Suite 800
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January 6, 1987

SUBSCRIBED and SWORN to before me,
a Notary Public, this 6th day of
January, 1987.

Elaine Kovacs
Notary Public

My Commission Expires: April 3, 1987