

16RB
#197

BEFORE
ELLIOTT H. GOLDSTEIN
ARBITRATOR

RECEIVED

SEP 29 1999

Illinois State Lab Rel. Bd.
SPRINGFIELD, ILLINOIS

IN THE MATTER OF THE ARBITRATION

BETWEEN

CITY OF CREST HILL, ILLINOIS
("City" or "Employer")

AND

METROPOLITAN ALLIANCE OF
POLICE, CHAPTER 15
("Union" or "MAP")

Arb. Case No. 97/094

ISLRB Case No. S-MA-97-115

Issues:

1. Wages
2. Longevity
3. Acting Pay
4. Sick Leave
5. Insurance

OPINION AND AWARD

APPEARANCES:

FOR THE CITY:

ROBERT J. SMITH, JR.

FOR THE UNION:

THOMAS P. POLACEK

PLACE OF HEARING:

CREST HILL, IL

DATE OF HEARING:

JANUARY 19, 1998

I. INTRODUCTION

This proceeding arises under Section 14 of the Illinois Public Labor Relations Act ("IPLRA" or the "Act")¹ to resolve five economic issues between the parties. The undersigned arbitrator was duly appointed to serve as the arbitrator to hear and decide the issues presented to him. A hearing was held on January 18, 1998 at the City Hall in Crest Hill, Illinois, commencing at 9:00 am. At the hearing, the parties were afforded full opportunity to present evidence and argument as desired, including an examination and cross-examination of witnesses. A 304-page stenographic transcript of the hearing was made. Both parties filed post-hearing briefs, the second of which (the City's) was received on March 10, 1998. The parties stipulated that the arbitrator must base his findings and decision upon the criteria set forth in Section 14(h) of the IPLRA and rules and regulations promulgated thereunder.

¹ 5 ILCS 315/14

II. THE ISSUES

The parties to this dispute are the City of Crest Hill, Illinois (the "City") and the Metropolitan Alliance of Police, Crest Hill Chapter #15 ("MAP" or the "Union"). The parties' prior Collective Bargaining Agreement (the "Contract") expired on April 30, 1997. (JX 1) The parties were able to reach agreement for a successor Contract on all issues, except for certain economic issues, which proceeded to interest arbitration before me.²

In terms of interest arbitration, this case is relatively straightforward. There are five economic issues³:

Wages⁴

Longevity Pay

Acting Pay In a Higher Grade

Sick Leave Accrual and possible buy back

Health Insurance Contributions and lifetime maximum

² Further, the parties agreed that the retroactivity of this Award would be to May 1, 1997.

³ The five economic issues are the only issues in this case.

⁴ There is a sub-issue within the wages issue. The Union has requested that I split the wage years (have the option to accept some, but not necessarily all of the wage years). The City takes the position that I do not have the authority to do this.

III. THE PARTIES' FINAL OFFERS

On the five economic issues, the final offers from both parties were as follows:

ISSUE	CITY POSITION	UNION POSITION
WAGES	5/1/97 3% Increase	5/1/97 4% Increase
	5/1/98 3.25% Increase	5/1/98 4% Increase
	5/1/99 3.25% Increase	5/1/99 4% Increase
Acting Pay	No change to existing section 5.1 (4 hours minimum acting in order to receive pay when a supervisor is not on duty).	New 2 nd Paragraph Section 5.1 The following pay scale shall apply except when a supervisor or above is not working on the street. Then, in lieu of the wage scale following, the acting shift commander will receive pay at the rate of the first year sergeant, unless that officer's base pay exceeds the sergeant pay. The officer will receive this pay for any time he serves in the capacity of acting shift supervisor.

Longevity

No Change to existing longevity benefits after 6, 12 and 18 years of service).

Revised Section 5.2
In addition to the pay plan, the employer shall pay all full time police officers for length of continuous service as follows:

For at least six (6) years but less than twelve (12) years, the

Employer shall pay three hundred ninety dollar (\$390.00) per year. For at least twelve (12) years, but less than

eighteen (18) years, the Employer shall pay six hundred fifty dollars (\$650.00) per year.

Over eighteen (18) years, the Employer shall pay nine hundred ten dollars (\$910.00) per year. Longevity pay shall be divided equally among the twenty-six (26) pay periods for all employees who have completed the required number of years.

SICK LEAVE

**No Change To Section
9.3
(140 days maximum
accumulation; no
buyback)**

**Added language to
Section 9.3:**

**Upon retirement from
employment with the
City with at least
twenty (20) years of
service with the City,
covered employees shall
be entitled to sell back
one-half (1/2) of all
accrued sick days at the
employees then
applicable straight time
hourly rate of pay, as
set forth below:**

**In order to be eligible,
affected
employees must
have at least one
hundred (100) sick
days accrued at
the time of
retirement.**

**The City shall set up an
account for each
officer. Sick leave
sold back pursuant
to this section
shall be placed in
said account and
shall be used for
the payment of
health insurance
premiums under
the City's health
insurance plan.
Upon retirement,
affected officers
may draw upon
this account for
the payment of
health insurance
premiums until the**

INSURANCE

Section 15.1 Insurance

The hospitalization, dental and life insurance plans in effect as of May 1, 1997 shall be maintained by the City during the lifetime of this Contract for the benefit of the employees of the Chapter, provided that the City retains the right to change carriers or to self insure so long as the level of benefits remains substantially the same, or greater, as those benefits in effect as of May 1, 1997.

No Change to Section 15.1 (No Contributions and remain at \$500,000 maximum lifetime benefit)

Commencing May 1, 1998, those employees electing family coverage shall contribute Ten Dollars (\$10.00) per pay period towards the premium cost of such coverage, provided the same contribution is required of all other non-bargaining unit City employees covered by the City health insurance plan. The City will amend the existing health insurance plan effective May 1, 1998 by increasing the current lifetime benefit maximum from Five Hundred Thousand Dollars (\$500,000.00) to One Million Dollars (\$1,000,000.00)

IV. RELEVANT STATUTORY SECTIONS

5 ILCS 315/14(g) provides as follows:

On or before the conclusion of the hearing held pursuant to subsection (d), the arbitration panel shall identify the economic issues in dispute, .. the determination of the arbitration panel as to the issues in dispute and as to which of these issues are economic shall be conclusive ... 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).

5 ILCS 315/14 (h)

Pursuant to state statute, I *must* adopt the last offers, which more nearly complies with the following factors, as applicable:

The lawful authority of the employer;

Stipulations of the parties;

The interests and welfare of the public and the financial ability of the unit of government to meet those costs;

Comparison of the wages, hours and conditions of employment involved in the arbitration proceeding with the wages, hours and conditions of employment of other employees performing similar services with other employees generally:

In public employment in comparable communities;
In private employment in comparable communities.

The average consumer prices for goods and services, commonly known as the cost of living;

The overall compensation presently received by 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;

Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings;

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.

V. DISCUSSION

A. The City Of Crest Hill

The City of Crest Hill is a municipality located in Will County, Illinois, just north of Joliet (CX 7,8). It has a population of 12,280. It has a total of 43 employees. Its sales tax revenue for 1997 was \$5,705,377. Finally, its 1997 Estimate Assessed Valuation ("EAV") was \$110,219,206 (CX 7,8; UX 2).

The City operates under a mayoral form of government with no city manager or administrator. The Mayor is responsible for overseeing the City's three major departments: Police, Public Works and Water/Wastewater (CX 1)

The Police Department, headed by Chief James Ariagno, consists of twenty (20) sworn personnel, including thirteen officers represented by the Union (CX 5, 17). Most of the Police Department's civilian employees as well as the rest of the City's employees are represented by the Service Employees International Union ("SEIU") (Tr. 175, 195).

B. The Conservative Nature Of Interest Arbitration

Underlying this award, as is the case in many interest arbitration awards are some very fundamental concepts. One of these is that, at its core, interest arbitration is a conservative mechanism of dispute resolution. Interest arbitration is intended to resolve an immediate impasse, but not to usurp the parties' traditional bargaining relationship, according to the analysis of numerous arbitrators, including myself. The traditional way of conceptualizing interest arbitration is that parties should not be able to attain in interest arbitration that which they could not get in a traditional collective bargaining situation. Otherwise, the point of bargaining would be destroyed and parties would rely on interest arbitration rather than pursue it as a last resort.

On this concept, one arbitrator stated:

If the process [interest arbitration] is to work, it must not yield substantially different results than could be obtained by the parties through bargaining'. Accordingly, interest arbitration is essentially a conservative process. While, obviously value judgments are inherent, the neutral cannot impose upon the parties contractual procedures he or she knows the parties themselves would never agree to. Nor it is his function to embark upon new ground and create some innovative procedural or benefit scheme which is unrelated to parties' particular bargaining history. The arbitration award must be a natural extension of where the parties were at impasse. The award must flow from the peculiar circumstances these particular parties have developed for themselves. To do anything less would inhibit collective bargaining. *Will County Board and Sheriff of Will County* (Nathan, 1988) quoting *Arizona Public Service* 63 LA 1189, 1196 (Platt 1974); accord; *City of Aurora* S-MA-95-44 at pp.18-19 (Kohn, 1995).

There should not be any substantial "free breakthroughs" that would not be negotiable by the parties in the interest arbitration process, I stress. If the arbitrator awards either party a wage package which is significantly superior to anything it would likely have obtained through collective bargaining, that party is not likely to want to settle the terms of its next contract through good faith collective bargaining. It will always pursue the interest arbitration route *Village of Bartlett* FMCS Case No. 90-0389 (Kossoff, 1990).

On this point, the City's brief stated the concept clearly:

The whole reason behind the last-best-offer statutory scheme is that the framers of the statute did not want to give the Arbitrator the opportunity to compromise any economic issue. Note, for example, that Section 14(g) allows the arbitrator to compromise on any non-economic issue (it has been stipulated that there are no non-economic issues in this arbitration). The reason for the last-best-offer/non-compromise/statutory scheme is well known. If the parties know that the Arbitrator cannot split the difference on wages, each party will be forced to come as close as possible to the other party, for fear of losing the issue in dispute. This means that the parties *must* come in with realistic proposals in arbitration or run the almost certain risk of losing. Because the parties are forced to get realistic, they necessarily come close together on final offers, which leads to the following result: most wage negotiations are settled across the table, rather than in interest arbitration, because as the parties get closer and closer together (to protect themselves in interest arbitration) the parties see the wisdom of settling instead of arbitrating.
City Brief at 15.

In other words, as I stated in *Kendall County*, Case Nos. S-MA-92-216 and S-MA-92-161, "Interest arbitration is not supposed to revolutionize the parties' collective bargaining relationship; the most dramatic changes are best accomplished through face-to-face negotiation".

C. The External Comparable Cities

The arbitrator recognizes that, as in any interest arbitration case, the external comparability factor plays a crucial role. In fact, many commentators have indicated that comparability is indeed the most important factor in the usual interest arbitration case. Accurate comparables are the traditional yardstick of looking at what others are getting and in turn is of crucial significance in determining the reasonableness of each parties' respective final offer. Thus, the issue of external comparables rises to possibly the highest level of importance in interest arbitration.

Here, each of the parties has offered external city comparables. The City has offered the following comparables:

Frankfort
Lemont
Lockport
New Lenox
Mokena
Orland Hills
Plainfield
Romeoville
Shorewood

The Union has offered the following external comparables:

Frankfort
Hickory Hills
Lockport
Mokena

Plainfield
 Richton Park
 Romeoville
 Winnetka

As one can see, the parties have agreed that Frankfort, Lockport, Mokena, Plainfield and Romeoville are comparables to Crest Hill. Obviously, since the parties have agreed on these comparables. I will utilize them in my analysis. As regards the "comparables" where the parties differ, the City's other comparables, with relevant data are as follows:

City	Population	Distance From Crest Hill	Sales Tax Revenue	EAV
Lemont	9,586	15 mile radius	\$685,185	121,340,297
Orland Hills	6,038	15 mile radius	\$1,147,692	54,654,204
New Lenox	12,692	15 mile radius	\$1,124,031	154,168,099
Shorewood	7,092	15 mile radius	\$799,282	96,702,391

The Union's external comparables aside from the four agreed comparables referred to above are:

City	Population	Distance From Crest Hill	Sales Tax Revenue	EAV
Hickory Hills	13,021	21 miles	\$3,463,431	160,000,000
Richton Park	11,200	20 miles	\$1,009,636	83,000,000
Winnetka	12,210	40 miles	\$4,016,540	538,093,356

This data contrasts with the information for Crest Hill:⁵

Crest Hill	12,300	-----	\$5,705,377	\$110,219,206
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C. The Substantive Issues

As I stated above, there are five economic issues which I must deal with

Wages

Longevity

Sick Leave

Acting Pay

Insurance

I will deal with each of these issues below.

1. Wages

As stated above, the final offer by the City was 3% for 1997, 3.25% for 1998 and 3.25% for 1999. By contrast, the wage offer from the Union was 4% each of 1997, 1998 and 1999. The combined difference in these numbers amounts to a total of 2.5% over the three-year contract.⁶ Beyond the pure substantive issue of which wage offer I should accept, there is the initial question of whether I should accept the Union's contention that I should split the wage issue into three different years with the opportunity to select the City's offer or the Union's offer of each year separately as opposed to an "all or nothing" approach.

⁵ The issue of the selection of the appropriate external comparables is dealt with below in the section on the selection of wages.

⁶ This figure does not include compounding.

a. Should the Wage Issue be Split up into Three Separate Issues?

The Union has requested that "In light of the nature of the City's offer with respect to contributions to health insurance premiums, it is imperative that the Arbitrator consider the wage proposals of the parties on year-by-year basis" Un. Brief at 16. Conversely, the City argues that I *cannot* do this, based on controlling judicial and administrative precedent interpreting the above-quoted statutory sections, i.e., Sections 14(g) and (h) of the Act. It argues that to "split economic offers" defeats the purpose of interest arbitration and that the Act does not allow this, based on its unambiguous terms and how these provisions have been consistently applied.

Generally, arbitrators do not allow wage issues to be split into separate years, I note. If the parties had actually agreed to split the wage issue into 3 separate issues, I would be much more amenable to agree with the Union. In *Teamsters Local 714 and Cook County Sheriff*, L-MA-95-001 (Goldstein, 1995), this Arbitrator held that there had been substantial evidence of an explicit agreement to do just that between those parties. The manifestation of that agreement included the fact that the parties included each of the three years as separate economic issues in the submission agreement, I reasoned. I further conclude that neither party objected to this arrangement at the onset of the hearing. Hence, I permitted such a "split" of final wage offers in that case, but made clear in my reasoning this was clearly an exception to the general rule under 14(g). *See Also FOP Labor Council and Logan City/Logan County Sheriff's Department* S-MA-73-26 (Leroy 1994); *City of Decatur and PBPA Labor Committee* S-MA-93-212 (Perkovich, 1994).

While sometimes a wage issue is split by the agreement of the parties, there is no evidence of any such agreement here, I find. Further, the Union has cited no authority for its argument, I note. Conversely, the City has cited numerous authorities for the proposition that arbitrators do not like to "split the baby". Its reasoning in arguing that this arbitrator should not split the wage years is correct, I rule. The basis for this determination is as was said in the City's brief:

If, on the other hand, one party or the other can propose unreasonable wage increases with the expectation that the Arbitrator might feel compelled to adopt at least one year of that parties' wage proposals, parties will tend to maintain unreasonable wage positions, to roll the dice, and let the arbitrator "*split the baby*" on wages. Why not shoot for the moon on at least one wage year if you know that you do not risk losing the entire wage issue. If a party believes it could come in with any wage offer, no matter how high, and let the Arbitrator pick a lower overall number by splitting the parties' final offers, it is hard to see how any contract would be settled in the future. Everyone knows that lawyers for municipal employers and lawyers representing unions counsel their bargaining units as follows: if you stay too high, you may lose it all; you better get realistic, because the law in Illinois forces you to get realistic. City Brief at 16.

Further, Arbitrator John Fletcher, in *Village of Alsip S-MA-93-110* (Fletcher, 1995), indicated that arbitrators do not have the right under the statute or by the parties' stipulation to essentially provide that the neutral can defeat the statutory requirement "last-best offer" in Section 14 of the Act by the device of permitting an arbitrator to structure a pay settlement by selecting from the parties' offers for each year of the agreement. Fletcher held that the offers in the case before him were made as a package, and they must either stand or fall in that manner. *See Also Village of Elk Grove Village and IAFF Local 3398* (Kohn, 1997) (clearly agreeing that absent

agreement, the wage "package" must be considered as covering the length of the "proposed contract").

As I indicated above, there must be some evidence of an agreement to split the wage issues to change what I have already held is the proper and required rule "not to split the baby" over wages, but to choose from the parties' last, best offers. In this specific case, there is no evidence of any such agreement to split the wage issues in this matter. Because there is no evidence of such mutual agreement, I do not believe that it would be appropriate to split the wage issues into separate economic issues, as MAP demands. The only apparent basis for the Union's request is the nature of one of the City's other proposals - health insurance. This is not sufficient evidence to support its argument, I rule.

That fact cannot override the basic structure of the statute, I find. I especially am convinced this is proper because I see no convincing reason, based on each party's proposal on health insurance, to find a need to "split the baby." I therefore will consider wages on a three year, "package" basis, I hold.

b. The Appropriate Wage Package

As indicated above, I am presented with two wage packages that differ by an uncompounded total of 2.5%. The packages are as follows:

PARTY	INCREASE MAY 1, 1997	INCREASE MAY 1, 1998	INCREASE MAY 1, 1999	TOTAL INCREASE
CITY	3%	3.25%	3.25%	9.5%
UNION	4%	3.25%	4%	12%

After much consideration, I have decided to accept the City's offer of 9.5% over three years. The crux of the parties' dispute in this matter involves the applicability and use of the comparison of the wage scales ("comparability data") required as one of the statutory factors under the Act as quoted above. As I have noted in other cases e.g., (*City of Dekalb*, ISLRB No. S-MA-86-26, (Goldstein, 1988) ; *Village of Skokie*, ISLRB No. S-MA-89-123, (Goldstein, 1990)), the parties' choice of comparables is critical to a proper assessment of the record in any interest arbitration case and a neutral examination of the basis for the selection by each and their use of comparability data is absolutely mandatory. External comparability is may be, under most circumstances, the most important factor in an interest arbitration case, I note, although it is clearly not always so.

The parties have agreed that Frankfort, Lockport, Mokena, Plainfield and Romeoville are indeed comparables to Crest Hill, as I mentioned earlier. The different choices are as follows:

The City's other proposed comparables are:

City	Population	Distance From Crest Hill	Sales Tax Revenue	EAV
Lemont	9,586	15 mile radius	\$685,185	\$121,340,297
Orland Hills	6,038	15 mile radius	\$1,147,692	\$54,654,204
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Vinnetka	12,210	40 miles	\$4,016,540	\$538,093,356

This data contrasts with the information for Crest Hill:

Crest Hill	12,300	-----	\$5,705,377	\$110,219,206
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After reviewing the comparables, I accept the City's comparables for purposes of this interest arbitration. There are a number of reasons for this decision. First, the City had a much more reasonable approach to the selection of comparables, namely, that some consistent principles for selection of comparables (geography, village size, E.A.V., the comparables being in the same labor market, etc.). It then used reasonable parameters on a consistent basis for all possible "comparables" meeting those requirements, I hold. Its standards of application of its points of comparison were logically and precisely applied. Conversely, while the Union articulated appropriate selection criteria, it did not then use those criteria in an objective manner, I believe. The use of Winnetka, for example, was in no way a logical choice. Frankly, I hold there was strong evidence that MAP "cherry-picked."

To reiterate, there are a number of factors that interest arbitrators review in determining which comparables to accept. Generally speaking, population, size of the bargaining unit, geographic proximity and, where as in this case, most of the revenues come from local property taxes, property values or EAV are important. *Bloomington Fire Protection District and LAFF S-MA-92-331* at p. 11-12 (January 7, 1994)(Nathan, Arbitrator). Geographical proximity is a well established measure of comparability in interest arbitration, as are population, assessed value and sales tax. *Village of Arlington Heights and LAFF, S-MA-88-89* at p. 18 (January 29, 1991)(Briggs, Arbitrator)

In its presentation, the City first identified its comparables by locating all the cities in Illinois, within 15 miles of Crest Hill. This yielded a list of 29 cities with a population ranging from 113,602 (Aurora) down to 110 (Symerton) (CX 8). Next, the City took these 29 cities and identified those that had a population that was within 50% of Crest Hill's population. This yielded a list of 9 cities with a population that ranged anywhere from 14,401 (Romeoville) down to 7,092 (Shorewood). Next, it took this list of 9 cities and identified those that had either Equalized Assessed Valuations ("EAV") or Sales Tax Revenue (CX 8,9) within 50% of either Crest Hill's EAV or Sales Tax Revenue. This yielded the final list of 9 cities as identified above.

These criteria selected by the City and the order in which the criteria were selected makes rational sense, as I noted earlier. The 15-mile radius encompasses all current residences of all current Crest Hill Police Officers, which includes the Northeast Corner of Will County. This is important because it generally identifies the source for the labor pool that Crest Hill relies upon in its hiring, I stress. Further, this radius is large enough to produce a sufficient number of comparables, but not so big as to bring in communities which are in a different labor market. See my decision in City of DeKalb/IAFF, supra. After reducing the entire Illinois "universe" down to the communities within 15 miles of Crest Hill, the City then culled the list by the communities within 50% of Crest Hill's population. This is appropriate, as cities of this size are much more likely to have similar problems and circumstances. This then provided a pool of comparable cities within 15 miles of Crest Hill.

Next, the City then selected the communities, which were within 50% of either the EAV or Sales Tax Revenue of Crest Hill, the two most major sources of revenues for municipalities. These criteria have been identified in previous interest arbitrations as being the most important criteria for determining comparables.

The resulting list produced nine comparable cities. Each community meets the criteria established by case law as well as common sense. They are all relatively similar to Crest Hill and are acceptable as a basis of external comparability, I rule.

The Union's external comparables were located farther than the City's comparables.⁷ In addition, the Union's comparables claim to use EAV and sales tax revenue as criteria. Again, however, Winnetka has EAV which is almost five times the EAV of Crest Hill as well as approximately 3 times as many employees. The other two Union comparables, Hickory Hills and Richton Park, are further away than any of the City's comparables, I also note. Further, Richton Park has sales tax revenue which is only about 20% of Crest Hill's. Thus, while the Union's criteria in the abstract is close to the City's analytically, it makes no sense when it is not used in an appropriate manner. I rule that the three "comparables" presented by the Union beyond the four both parties submitted at the hearing should not be used, and there is no persuasive evidence to justify their use, based on the record evidence. As I stated in an earlier interest arbitration decision:

⁷ All of the Union's comparables at least five miles further than the City comparables. In fact, Winnetka, another alleged comparable, was located 40 miles from Crest Hill, on the much more affluent Chicagoland North Shore.

[C]omparables are not to be a pick and choose situation. Instead, some consistency in comparisons should be made in order to serve as a more exact guide in reaching the most realistic result pursuant to the intent of the Statute. *Kendall County and Sheriff's Department and FOP*, S-MA-92-215, p. 12 (Goldstein, 1994)

Based on the City's comparables, then, as per my current ruling, the issue is which wage package is the better for me to accept.

c. **The City's Wage Package Is Preferable To the Union's Package**

After considering all the possibilities mentioned above, I conclude that the City's wage offer of 3% for 1997, 3.25% for 1998 and 3.25% for 1999, for a total wage package of 9.5% is the more reasonable offer, as per the last best offer standard of Section 14(g).

As the City points out, Crest Hill is the least affluent of the comparables in terms of average family income and home value, and has the lowest per capita total revenue of the comparables (CX 14-16), I note. However, in spite of this factor, Crest Hill ranks second highest in terms of the City's comparables in terms of base pay, first in median officer base pay after five (5) years and first for starting based pay for fiscal year 1996-97. That is strong evidence that there is no need for "catch up" here.

The data also reflects that the City ranked first or second among all the appropriate categories in comparison with its comparables⁸. When used in

⁸ Based on collection bargaining agreements available to the parties.

conjunction with the City's offer as well as the collective bargaining agreements already negotiated in the comparable communities, those categories include:

Minimum years to reach base wage step

Longevity pay

Educational pay

Educational pay 97-98

Starting Base wage 96-97, 98-99, 99-00

Starting Base wage adjusted for longevity 96-97, 97-98, 99-00

Starting Base wage adjusted for education and longevity 96-97, 97-98, 99-00

Median Base Wage 96-97, 97-98, 98-99, 99-00

Median base wage adjusted for longevity 96-97, 97-98, 98-99, 99-00

Median base wage adjusted for longevity and education 96-97, 97-98, 98-99, 99-00

Top Base Wage 96-97, 97-98, 98-99, 99-00

Top base wage adjusted for maximum longevity, 96-97, 97-98, 98-99, 99-00

Top Base wage adjusted for education and maximum longevity, 96-97, 97-98, 98-99, 99-00 (CXs 28-67)

All the above mentioned data reflects that the City pays its officers very well in comparison to all the available comparables, as I read the evidence of record. The data further demonstrates that Crest Hill's officers reach top pay faster than almost anyone else, and have opportunities for longevity and education pay that most other communities do not. These are very significant factors in my choosing the City's final offer on wages, I emphasize.

Based on wage data available, the City's proposed increases of 9.5% continues and maintains the City's ranking as the second highest paid comparable for top base pay and its position as the highest paid comparable for starting pay and median patrol officer pay, I further note. There is simply no reasonable justification to accept the Union's proposal, without some evidence to counter the proofs as to all the above standards or criteria to be applied under the statutory scheme. The City's proposal maintains the City's position among the comparables and there is no reason to change this formula, based on the proofs of record, I find, because to simply say the Union wants more is insufficient under Section 14(g) and (h), I rule.

Another criteria which the Act requires that I review is "The average consumer prices for goods and services, commonly known as the cost of living" 5 ILCS 315/14(h)(5). The data regarding the consumer price index confirms my reasoning on external comparability and what is the standing of Crest Hill in its "real" labor market, I hold. The cost of living criterion has been construed to be consistent with the Consumer Price Index ("CPI") *Village of Skokie and IAFF*, S-MA-89-123 (Goldstein, 1990), *Village of Lombard and Local 89, P.B. P.A. S-MA-89-153* (Fletcher, Arb.).

There are two approaches to reviewing the CPI, I realize. One is to look prospectively and one is to look retroactively. The prospective approach is built on projections while the retrospective approach is based upon objective data. One approach to applying the cost-of-living criterion is to judge the parties' final offers on the basis of the increase in the CPI during the last year of the parties' most recent collective bargaining agreement.

One appropriate and the most common way to look at CPI data in terms of negotiations and interest arbitration is to use the year since the parties last negotiated over wages. These figures are geared to present a picture of what happened since the last pay raise for which the parties bargaining and agreed. I believe [that these figures] [are] more useful than figures which purport to show increase or projected increases in CPI for the period of time to be covered by the award. *City of Skokie and IAFF S-MA-89-123*(Goldstein, 1990)

This retrospective approach is the one that I choose to use in the instant case. The rate of increase in the CPI for the fiscal year 1996-97, the last negotiated year of the parties' collective bargaining agreement was 2.23%. The increase in inflation over the last three years of the last contract was 8.54%. The City's compounded offer on wages for the period of the three years is 9.8%, while the Union's compounded offer is 12.49%. The City's final offer on wages is closer to the actual increase than the Union's offer, I rule. Therefore, the CPI analysis also favors the City's overall offer on wages, I find.

In addition to the above-mentioned factors, the total compensation package also favors the City's offer. The Act also requires that in determining any award, I must take into account the "overall compensation presently received by employees" 5 ILCS 315/14(h)(6). Here, patrol officers in Crest Hill, who already earn more than any of the other comparables except Romeoville, earn between \$2300 and \$2900 more than the median communities of Frankfort and Lockport, and can earn between \$7600 and \$8700 more than the median communities of Frankfort and Lockport for top base, longevity and education pay. Thus, when total compensation is reviewed, the balance weighs heavily in the City's favor, I conclude. That fact is important to this determination in favor of the City, I hold.

Section 14(h) of the Act also provides that “[t]he interest and welfare of the public and the financial ability of the unit of government to meet those costs” is to be taken into account in interest arbitration proceedings. 5 ILCS 315/14(h)(3). There has been no evidence that the City lacks the ability to pay either offer. However, having observed that the City has the ability to pay an increase does not mean that the City ought to pay an increase unless it is satisfied that there will be some public benefit from such expenditure. *City of Gresham and IAFF Local 1062* (Clark, 1984).

As stated above, the City does not make an inability to pay argument. Nor has the Union made a claim of increased productivity or changed circumstances which might support increases larger than the City proposal. In fact, the City offered compelling evidence that such an increase is totally unnecessary to recruit or retain qualified officers. The City argues it is entitled to get the most “bang” for its “taxpayer buck”. The City urges it has an interest in obtaining the most benefit to the public it can out of each and every taxpayer dollar it spends. Under these factual circumstances, I cannot disagree.

Based on all these considerations, I hold that the City’s offer is the most reasonable and I adopt it as the pay increases for 1997-98, 1998-99 and 1999-00.

2. The Longevity Issue

Regarding longevity, as indicated above, the City has proposed that there be no change in Section 5.2 of the Contract which provides for certain

longevity benefits after 6, 12 and 18 years of service. Conversely, the Union has proposed that longevity benefits be increased as follows:

Time Period	Annual Longevity Amount [Current Longevity Amount]	% Increase
	\$0 [\$0]	0%
Less than six (6) years		
At least six(6) but less than twelve(12) years	\$390 [\$260]	50%
At least twelve (12) but less than eighteen (18) years	\$650 [\$520]	25%
At least eighteen (18) years	\$910 [\$780]	16.6%

This request is clearly nothing more than an attempt at another form of wage increase, the City urges. This indeed may be so, I note, but that conclusion is hardly dispositive of the longevity issue, I believe. However, other arbitrators have recognized that longevity increases are a disguised (albeit weakly) form of wage increase *See Village of Elk Grove Village S-MA-93-231* (Nathan, 1994) As stated by me above, however, any change to the *status quo* which is attempted in an interest arbitration must be reviewed very seriously before adopting. Here, regarding the longevity issue, there was no mention of a *quid pro quo* for the increased longevity pay, I specifically find.

Beyond the concepts of *quid pro quo*, and "no breakthroughs" in interest arbitration, external comparability supports the City's position that no increase in longevity pay is necessary, I am provided by the evidence of

record. The City is one of the few cities within the comparables to even offer longevity pay, I note. Beyond that, the longevity of Crest Hill is only slightly less than the longevity pay offered by the other comparable cities. Further, total compensation, as discussed fully above, supports the City's position. Crest Hill's officers, even *without* longevity and education pay, earn more than most of the other comparables, the record reveals. Finally, the welfare and interests of the public do not support an increase in longevity pay, I believe the evidence indicates -- or at least the Union has not proved the opposite, I find. The Union's only stated reason for making a change in the longevity pay is that the pay has not been increased in a long period of time, I further find. While this may be true, this fact is not enough to grant an increase, under the statutory standard, I rule.

Thus, in light of all of the above-mentioned factors, I hold that Section 14 regarding longevity remain unchanged; the Employer's offer on longevity is thus accepted by the Neutral Arbitrator.

3. The Acting Pay Issue

With regard to acting pay, the issue is fairly straightforward. The City proposes that the second paragraph of Section 5.1 not be changed. The City contends that it should continue to hold that an officer acting in the positing of a shift commander would receive first year sergeant's pay for any time that he/she serves as shift supervisor. However, in order to get this pay, the individual must work for at least four hours, the City asserts. There are logically sound reasons for this "minimum," the City says, but also

forthrightly admits "acting pay" is, to it, another way to get a pay raise indirectly; if not through an overall wage increase.

Conversely, the Union proposes some major changes to this provision. First it proposes that the acting up provision should apply at any time a sergeant is not on the street. Then, the acting shift commander will receive first year's sergeant's pay for all time worked in the capacity of shift supervisor. The Union proposes two major changes to the current contract language. One is to have the acting provision apply when a supervisor, the rank of sergeant or above is not on the street. Next, MAP has no threshold limit for earning acting up. The Union proposes that it will take effect immediately upon an individual taking the role of shift supervisor.

The Union proposes to change the existing structure of the Contract, the record thus suggests. The restrictions which the Union now objects to (the four hour limitation) is the very provision that the parties mutually agreed upon in order that employees have an opportunity to earn acting pay under certain circumstances in earlier negotiations, the record shows. As stated above, the status quo should not be broken absent strong and compelling evidence. There is no such strong and compelling evidence here, I find, because neither internal nor external comparability support the need for an acceptance of the Union's offer on "acting up." Moreover, no other statutory standard favors such a change, I rule -- just as the City argues. Further, there is no evidence of a *quid pro quo* by the Union in return for this proposal. Hence, the basic demand is rejected by me.

As to the language requiring acting up pay at any time when no sergeant is working the street, I also accept the City's position. The Union once again presented absolutely no evidence that the current situation is any different or has been changed from what the parties first agreed to in the acting pay provision. The Union claims that even though a lieutenant may also be on duty, he/she may not be "on patrol;" thus, the senior officer acts as a supervisor, it claims. However, the City properly rebutted the Union's evidence indicating that a lieutenant usually carries a radio, as well as a pager, with him and can be reached at any time and the lieutenant can take care of the duties of the sergeant if the sergeant is absent.

I therefore find that the Union has not presented compelling evidence indicating that there is any valid reason to change the status quo on when a senior officer should be elevated to an acting supervisor.

As to the requirement that an officer must work four hours to earn any acting up pay, I also find for the City. The idea that an employee must work a minimum amount of time in a higher level job to receive acting up pay is a well-accepted theory of compensation practice. *Village of Schaumburg and IAFE* (Briggs, 1998.) The concept underlying this approach is that an employee is "training" for the initial four hours of the shift. If he/she successfully completes that period, he/she is then rewarded for the entire time acting up. This was obviously the parties' thoughts when they negotiated this Contract. Second, all economic factors favor the City's position on this issue. First, internal comparability supports the City's

position. The patrol officers are the only employees to receive this benefit. External comparability also supports the City's position. Only two of the other City comparables offer acting up pay. One, Lemont, pays by the hour, but at a rate which is only half the rate of the City. The other comparable to offer acting pay is Lockport, which, like Crest Hill, only offers acting pay after an officer has worked a minimum of four hours .

Further, there is the issue of total compensation already mentioned in the discussion over wages. As stated above, Crest Hill's officers are given fairly generous base pay comparatively speaking, and also education pay and longevity pay. Finally, the Union has placed before me no evidence that would show the public good is furthered by this proposal.

There is thus, on this record, no evidence presented that would permit me to change the current system. There is no proof the Union has offered a quid pro quo. I hold that the language regarding acting out of grad pay should remain unchanged, and therefore the City's proposal on acting up is adopted by the Neutral.

4. The Sick Leave Proposal

The City's proposal regarding Section 9.3 is that it should remain the same without modification. Conversely, the Union has proposed a number of changes to the Sick Leave Provision. Basically, the Union has proposed an increase in the sick leave maximum accrual rate by twenty hours. In addition, it has proposed that employees with twenty years of service and

who have earned at least 100 sick days could sell back up to eighty (80) sick days upon retirement to help cover retiree insurance expenses.

Here, again, the Union has offered no *quid pro quo* for this proposal. This proposal admittedly would provide a significant economic benefit never before provided to Crest Hill employees. This could constitute a "major breakthrough" that the Union ordinarily cannot obtain through bargaining. First, there is no evidence that support increasing the limits on sick leave accrual by twenty hours. There is only one officer in the Department who has met the ceiling for sick leave accrual. In addition, only one other officer is close to meeting the maximum sick leave accrual and that employee has twenty years of service with the Department. There has been no evidence presented that the current maximum is somehow inadequate to serve the needs of the officers. I find that it is adequate and there is no reason to change the *status quo* with regard to the maximum accrual of sick days.

The other proposal which the Union has made, to change the sick leave provision to require the City to buy back ½ of sick leave days from officers on the job for at least twenty years and with at least 100 sick days on the books. This is simply an attempt to increase pay. All of the discussion above which supported the City's position on the wage issue also support's the City's position here. Internal comparability supports the City's position. All Crest Hill municipal employees are allowed to accrue up to 140 days of sick time, and no other City employee can sell back any of the sick days. External comparability does not support the Union's position. First,

five of the City's comparables have no form of buy back at all (Frankfort, Orland Hills, New Lenox and Shorewood). The other three communities which have buy back provisions are far less than the Union's proposal. Mokena allows for 52.5 days of buy back, Lemont provides for 45 days of buy back and Plainfield provides for 45 days of buy back. These are all a far cry from the Union's 80-day proposal.

Further, the total compensation package favors the City on this issue. As noted in detail above, Crest Hill officers make more than all of the City's comparable except Romeoville. Where is the need for "catch-up" here? As the City notes, if this is truly the objective of the Union's proposal, it could have proposed that the difference between the City's pay and the next highest pay could be set aside for the payment of retiree health plans. There is no evidence that any such proposal was made.

The City also urges that this benefit, if granted, could place substantial economic hardship on Crest Hill at some point in the future. If all thirteen sworn officers obtained the maximum number of sick days, under the Union's proposal, they would eventually have 1040 days which could be cashed in. While I have not costed this out, I believe the economics are not as serious as the City would have it. The City has in effect reduced the Union's proposal "to the absurd". Even so, there is a kernel of truth in the City' argument. One arbitrator who dealt with the exact same issue indicated that when dealing with a cost issue, the overall cost must not just be measured today, but into the future:

However, there is evidence that the adoption of the Union's last offer would impose a substantial cost liability upon the Employer. Although it is highly unlikely that all current ...[officers] would resign simultaneously for the purpose of cashing in their accumulated sick leave, the Employer nevertheless would face a heavy cost burden over the years as departing COs received reimbursement for half of their unused sick leave
Cook County Sheriff (Feuille, 1987)

Overall, the increase in the accrual rate of sick leave as well as the proposal for a buy back of sick time is a benefit for which there is little justification granting. Further, the cost of granting this benefit is so large that it requires much in the way of justification. However, very little has been offered in that realm. For all of these reasons, I rule in favor of the City on the issue of sick leave and I, as Neutral, adopt that proposal as to no change as dispositive of this particular economic issue as most consistent with the statutory criteria.

5. The Health Insurance Issue

The City proposes that employees pay \$10 per pay period commencing May 1, 1998, provided that the same contribution is required of all non-bargaining unit employees covered by the City's insurance plan. In addition, effective with the increase in co-pay, the City will increase the lifetime maximum benefit from \$500,000 to \$1,000,000. The Union's proposal on this issue is that the provisions of Section 15.1 remain unchanged with no contributions by employees and a \$500,000 lifetime maximum.

The Union argues that because the City seeks a change in the *status quo* with respect to insurance, the burden properly resets with the City to justify the change in insurance it seeks. I agree with that analysis, just as I did on the Union's breakthrough offers discussed in detail above. Here, I find that the City has not presented nearly enough evidence to prove that it should receive this change in payment methodology, for the reasons that follow.

First, the City has proposed a substantial, dramatic change to a current employee benefit by requiring police officers to contribute to the cost of health insurance premiums. However, there was little evidence to support the City's position; there was, for example, no real evidence of economic necessity in this specific situation to justify such a change, I hold.

It is to be remembered that no evidence was presented to show that costs of health insurance, overall, have gone up for City employees or its police officers. While the proposal admittedly requires that employees will only have to contribute when other Crest Hill employees are required to do the same, there was evidence that the SEIU negotiated an agreement on that basis. Therefore, this is not a hypothetical, and gives the City one leg upon the concept of internal comparability.

However, as I have stated in several cases decided by me, when non-Union employees, outside a bargaining unit, are the basis for claimed internal comparability, it is not normally persuasive evidence, as, for example, the SEIU contract is non-Union employee benefits mean little when a change in

the status quo for them is or can be done unilaterally by the Employer. The City should not be able to bootstrap a change on that basis, i.e., that it has implemented provisions in its benefit package without bargaining, and now has established the basis for what is to be done with its unionized workforce by "comparability." Similarly, when another Unionized unit like the SEIU employees, negotiates a benefit change, it is impossible to tell on the face of it what or whether there were tradeoffs or separate consideration for the deal.

Accordingly, as to health insurance, I give internal comparability only some weight. Other factors can tip the scale to the status quo, I find. The City does point out that all of its comparables have the right to require contributions, but also admits that "... it is true that five comparables which all pay much less in top base pay than Crest Hill do not currently require employee premium contributions" (City Brief at 51-52).

Thus, I find to be of critical importance that, of the City's 9 comparables, a majority do not even require contributions at this time. This is quite significant to my determination that there is no proper basis for employee contributions under the MAP contract with the City, I reiterate.

The City further attempts to justify its proposed requirement of employee contributions based on the fact that 71% of employees nationwide who were provided health insurance were required to pay a portion of that insurance. It also points out that 76% of private sector employees contribute to their health insurance. The City appears to argue

that it should be allowed to obtain contributions for health insurance based on abstract issues of fairness vis-à-vis other City employees and the "community in general" (City Brief at 53). In fact, the City admits that its insurance costs *WENT DOWN* in both 1995-96 and 1996-97. Finally, the City admits that Crest Hill already has relatively low deductibles and its demand for a co-pay provision is only \$10.00 per month.

Looking at the City's offer, it seems to be facially reasonable. It asks only \$10 a month from employees whose overall compensation is high, relative to the external comparables, and will impose this only if all non-bargaining employees must also pay this amount. Further, if this proposal is adopted, it will increase the lifetime maximum coverage from \$500,000 to \$1,000,000.

I cannot accept this proposal because there is no substantive evidence that the City ever offered a quid pro quo, or that there is a need for it outside the abstract "matter of principle." Perhaps the SEIU or non-bargaining employees were agreeable to the idea of a reasonable contribution by each employee, individually, for health insurance. MAP and the City's police force were not, and this basic disagreement, I suggest, was likely the cause of this interest arbitration. As so many arbitrators have held, interest arbitration may not grant, as a matter of process, that which is unattainable through direct bargaining. Indeed, in this case, nothing other than internal comparables ("if the other employees agree to contribute"), and a proffered claim after the close of the record that such was the case, form

VI. AWARD⁹

In summary, I hold the following regarding each of the contested issues in this matter:

1. Wages

I hold that the City's proposal is accepted. The wage increases for the bargaining unit shall be as follows:

3% across the board increase retroactive to May 1, 1997

- 3.25% across the board increase retroactive to May 1, 1998
- 3.25% across the board increase effective May 1, 1999.

2. Acting Pay

I hold that the City's proposal is accepted. The second paragraph of Section 5.1 - Compensation shall remain unchanged.

3. Longevity Benefits

I hold that the City's proposal is accepted. There shall be no change to Section 5.2 of the Agreement.

4. Sick Leave Benefits

I hold that the City's proposal is accepted. There shall be no change to Section 9.3 (Sick Leave Accrual and Usage).

5. Insurance

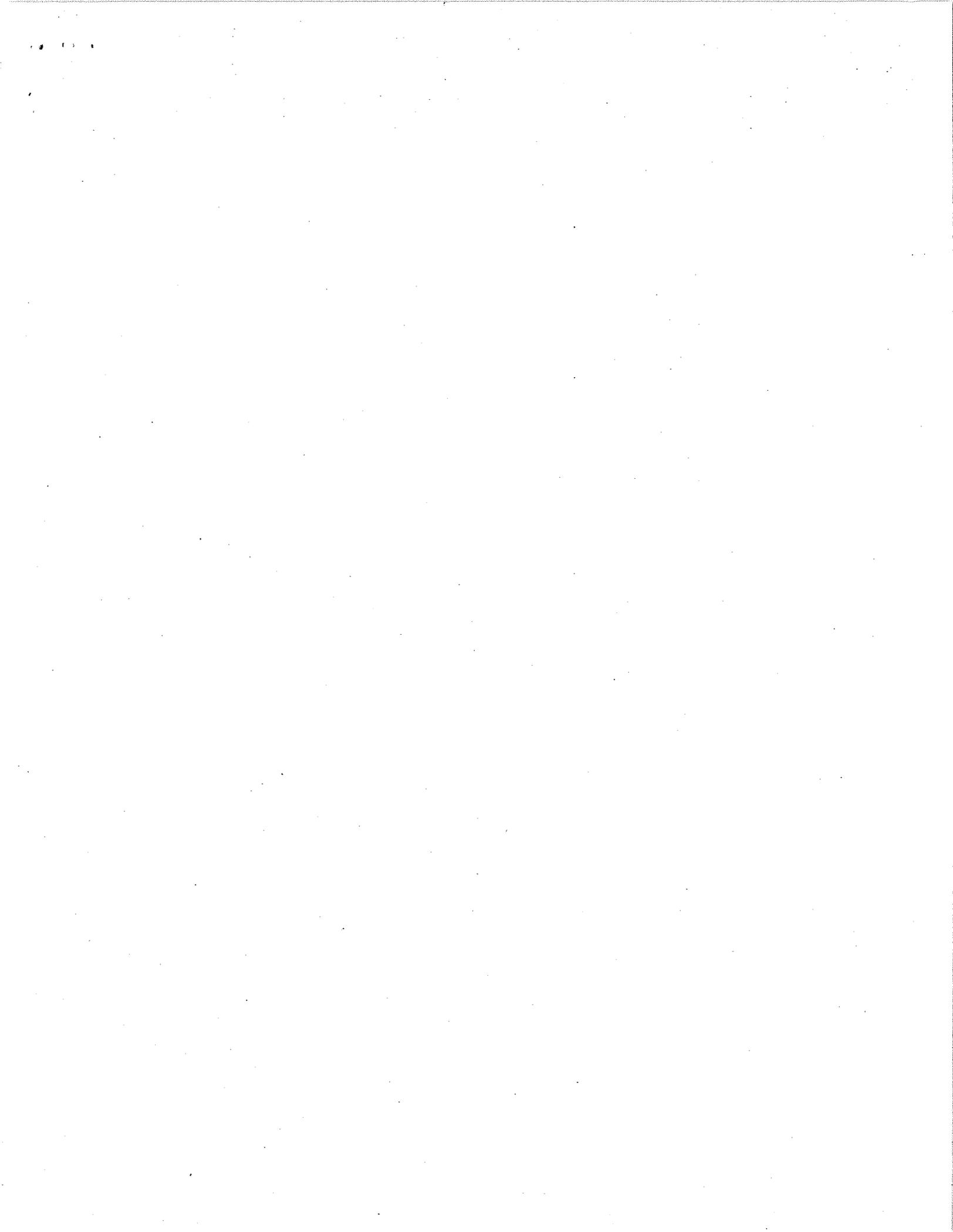
I hold that the Union's proposal is accepted. There shall be no change in Section 15.1 (Insurance).



ELLIOTT H. GOLDSTEIN
Arbitrator

August 14, 1998

⁹ I have made a number of findings that various provisions should remain unchanged. Obviously, in some of the provisions, there are entries for the time period covering the Contract. These provisions may be changed to reflect the dates of the new Contract.



PRELIMINARY AWARD AND DECISION

I am concerned that the parties in this matter wish for a speedy resolution. In the interest of expediency, I am issuing a Preliminary Award in this matter. There are five (5) issues in controversy in this matter. Those issues are:

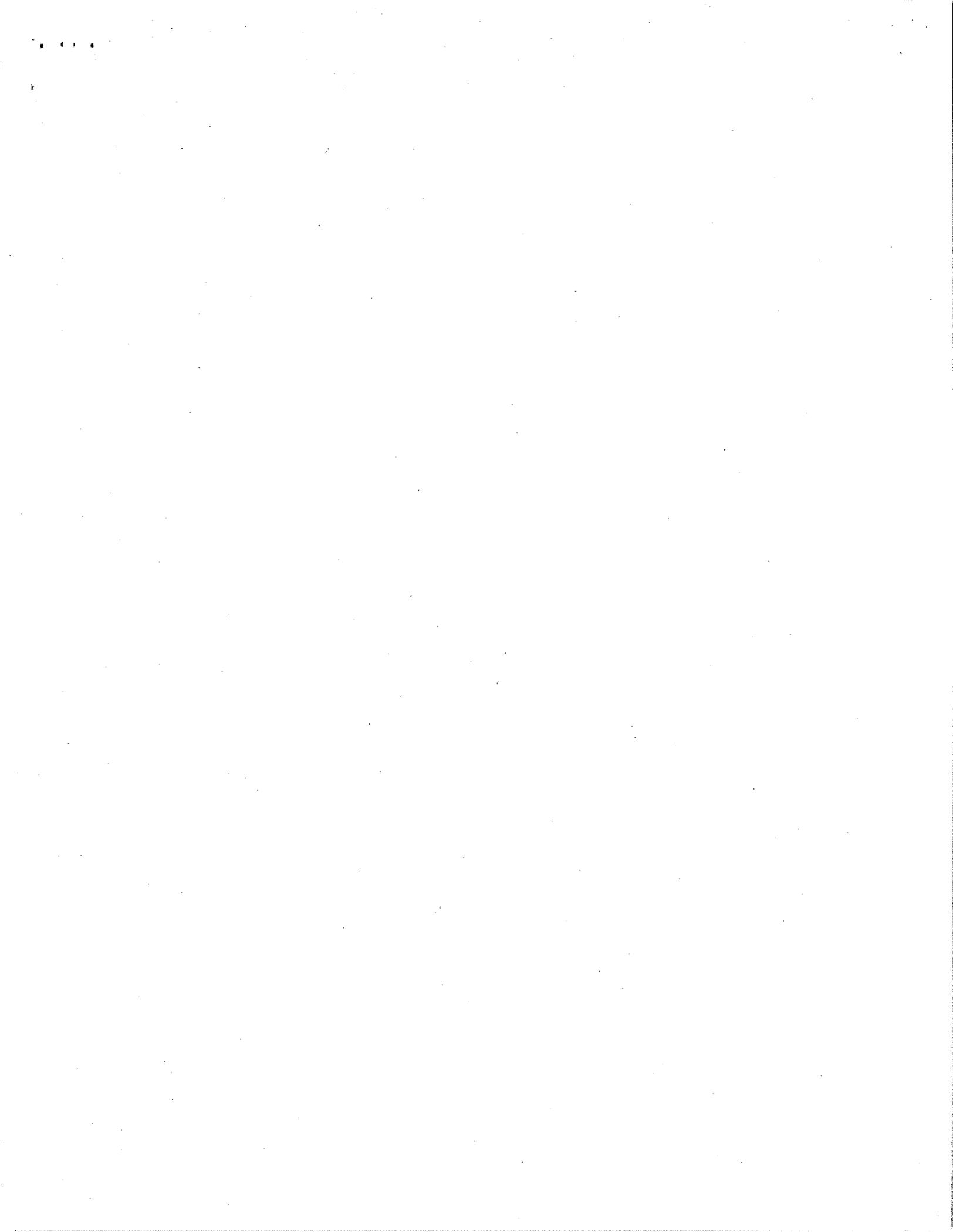
- Wages
- Longevity
- Acting Pay
- Sick Leave
- Insurance

I have reviewed these issues and I make the following rulings on each of the issues.

1. Wages

On the issue of wages, I rule in the City's favor. Thus, the wage increases will be as follows:

5/1/97-4/30/98	3%
5/1/98-4/30-99	3.25%
5/1/99-4/30/00	3.25%



2. Longevity

On the issue of longevity, I rule in the City's favor. Thus, there shall be no changes to Section 5.2 of the Agreement which provides for longevity benefits after 6, 12 and 18 years of service.

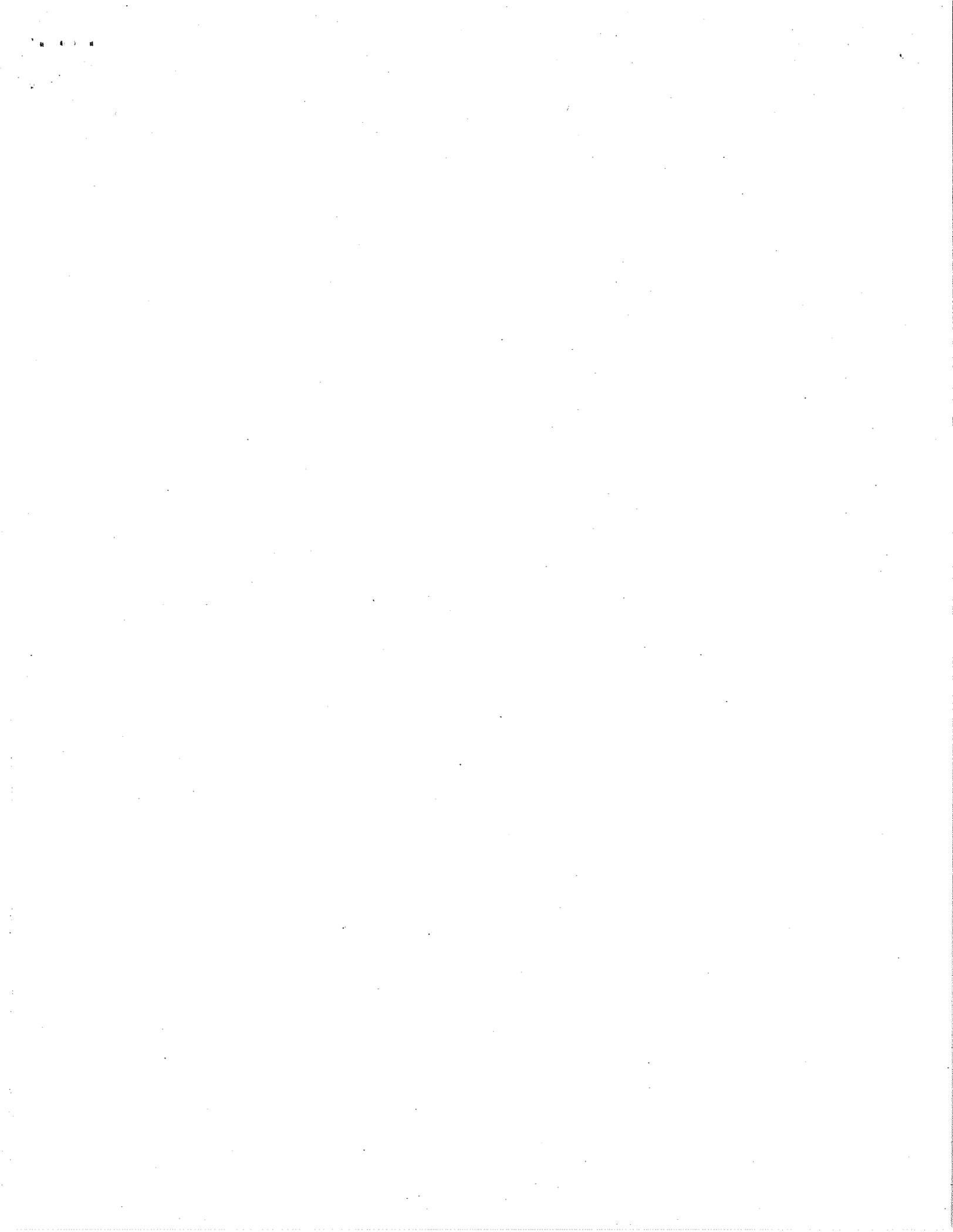
3. Acting Pay

On the issue of acting pay, I rule in the City's favor. The relevant language of Section 5.1 shall read as follows:

The following pay scale shall apply except when a supervisor of the rank of sergeant or above is not working. Then, in lieu of the wage scale following, the acting shift commander will receive pay at the rate of the first year sergeant, unless that officer's base pay exceeds the sergeant pay. The officer will receive this pay for any time he serves in the capacity of acting shift supervisor, provided that he has worked in that capacity for at least four (4) hours during his shift.

4. Sick Leave

On the issue of sick leave, I rule in the City's favor. Thus, Section 9.3 (Sick Leave Accrual and Usage) shall remain unchanged.



5. Insurance

On the issue of insurance, I rule in the Union's favor. Section 15.1 (Insurance) of the Agreement shall read as follows:

The hospitalization, dental and life insurance plans in effect as of April, 1997 shall be maintained by the City during the lifetime of this contract for the benefit of the employees of the Chapter, provided that the City retains the right to change carriers or to self insure so long as the level of benefits remains substantially the same, or greater, as those benefits in effect as of April 1, 1997. During the remaining term of this Agreement the City will not require employee premium contributions.

A full written decision will follow to the parties shortly.


Elliott H. Goldstein, Arbitrator

July 31, 1998

