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PUBLIC EMPLOYMENT
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CONCILIATION

Erwin J. Kelly
Assistant Director of Conciliation
New York State Public Employment
Relations Board
50 Wolf Road
Albany, New York 12205

RE: Arbitration -between-
Village of Westhampton Beach -and-
Westhampton Beach P.B.A.
Case No. CA-0042; M75-63

Dear Erwin:

In response to your letter and our telephone conversation, I enclose the following report on the above arbitration, together with my bill:

At the outset of the arbitration proceedings, the parties and I went through the fact-finder's recommendation to see which items were still at impasse and which items the parties could agree upon. As a result, we narrowed the number of issues to 15 that were still at impasse and to be presented to the arbitrator. Hearings were conducted and post-hearing briefs were submitted. It was my impression that most of the documents concerning the 15 outstanding issues were the same as those presented to the fact-finder on the same issues. Probably the briefs also reflected the briefs sent to the fact-finder.

The interesting part of the arbitration took place during the executive session. At that time a certain amount of bargaining went on between the designees of the respective sides. A basic ground rule that I established at the beginning of the executive meeting was that, unless either side could clearly demonstrate that the fact-finder's award was either erroneous or significantly out of line based on comparable conditions existing elsewhere or because of peculiarities of Westhampton Beach, the fact-finder's recommendation would be adopted. An examination of the arbitration award will show that, in almost all instances, the fact-finder's recommendation was considered fair and equitable and therefore was awarded.

A source of considerable difficulty was related to the fact that the police department had in the recent past switched over from an eight-hour to a ten-hour tour of duty and the fringe benefits were still being computed on the basis of the old eight-hour tour.

Phil Pitrizello, the fact-finder, had recommended that in all instances where computation relied upon the length of the work day the benefits be adjusted to reflect that situation.

The disagreement that resulted in Yakaboski's dissenting opinion arose during the executive sessions. During the discussions, the P.B.A. indicated a willingness to enter into a two-year agreement that would call for 7 1/2 per cent for the first year and a staggered set of increments for the second year that would constitute an amount significantly less than the 7 1/2 per cent. In exchange, the Union asked that leave computation in the event of a return to an eight-hour tour of duty conform with the time received under the ten-hour arrangement. Yakaboski initially agreed, since it was acknowledged by both sides that the ten-hour tour was acceptable to both sides and that a change in the future was unlikely. Subsequently, Yakaboski brought that proposal back to the Village Council, and they raised strenuous objection to such a restriction in the event they should decide to go back to the eight-hour day. A number of unofficial conversations took place between the designees from both sides, which was later reported to the public member of the arbitration panel. These discussions were an attempt to iron out some differences concerning the conversion from ten hours to eight hours. In a subsequent discussion with Yakaboski, he indicated to me that he had a serious problem with his client and that he could see no harm in adopting the conversion method outlined in the arbitration award; however, that he would be compelled to object to it and write a dissenting opinion. It is that dissenting opinion that is appended to the award.

There was a great deal of difficulty in this arbitration created by the Village's designee, who was extremely difficult to reach on the phone, making it hard to proceed expeditiously in drafting an award after the conclusion of the arbitration hearings. Likewise, the Village's designee found it very important to consult, after each executive session, with the Village. This, in conjunction with the difficulty of reaching him by phone, resulted in delays and a kind of sub rosa negotiations that were not necessarily helpful in arriving at an award.

A recommendation that I would make, growing out of this experience, is that the designees assigned by the parties be directed not to discuss details of the panel's deliberation during the course of these deliberations. Designees should be sufficiently briefed and informed concerning the issues by the time the executive session convenes. It is questionable that such a ground rule could be enforced; however, it might minimize the amount of such consultation and thereby lessen the resulting delay.

I can't think of any practical suggestion that would compel a designee to respond to phone calls, except to inform the parties that their designee should have sufficient free time to participate in the deliberations in order to avoid inexcusable delays in issuing an arbitration award.

Sincerely yours,


Edward Levin
Arbitrator

EL:JR