

STATE OF NEW YORK PUBLIC EMPLOYMENT
RELATIONS BOARD
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STATE OF NEW YORK: PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of the Arbitration between

CONCILIATION
Case Nos.
0130
CA-2050
M76-773

THE CITY OF JOHNSTOWN

and

LOCAL 779, JOHNSTOWN FIRE FIGHTERS ASSOCIATION

APPEARANCES: John Przekop for Johnstown Fire Fighters Association
(JFFA)
Arthur Carl Spring, Esq. for City of Johnstown (City)

The arbitration panel selected to determine this dispute, the resolution of a proposed employment contract between the parties, was asked to consider eight different items in dispute. The arbitration panel met privately and the panel members appointed by the parties conveyed the panel's suggestions for resolution of the dispute to their respective interest groups. In this manner the number of items in dispute was reduced to four. A hearing was held before the panel June 13, 1977 in Johnstown. In the course of the hearing one additional item was settled when it became apparent that no real difference in viewpoint existed. At the hearing the parties appeared, testified, offered evidence and argument in support of their respective positions. The panel considered all evidence and testimony presented and was polled on June 20, 1977 and asked to render its decision in the case of each of the remaining items in dispute.

The three items remaining for determination by the panel were salary, emergency sick leave and the manner in which recall should be compensated.

Even though this case occurred before July 1, 1977, we shall use the standards for determination which become effective that date by amendment of Civil Service Law, section 209, subdivision 3, paragraph (c). Those criteria were also established recently by the Court of Appeals in its decision in an interest arbitration case dealing with the police in City of Buffalo v. Rinaldo, ___NY2d___, decided June 6, 1977.

Johnstown is one of the oldest communities in the Mohawk Valley. Its active history played great significance in the Indian wars before the American Revolution as well as in the shaping of the American victory in the Revolutionary War. It is a city with about 10,000 inhabitants having a fire department of about 25 full time members. It is located in a sparsely populated rural county, Fulton, which is adjacent to portions of the Adirondack State Park.

Traditionally Johnstown has been a center for the preparation of animal hides for use in leather products. However, the leather industry has been depressed for several years. The City pointed out that several large corporations such as W. T. Grant and the A & P had closed their local retail outlets, resulting in a loss of employment and other income to the City. It should be noted that Grants is now involved in bankruptcy litigation on a nationwide scale and A & P has just declared the first dividend on common stock in several years. The JFFA introduced evidence to indicate that a number of new businesses have been opened in the last several years in Johnstown, and that numerous new structures were erected to contain new business.

The Fulton County Industrial Profile states that the mean family income in the County in 1976 was \$8,635.00. This figure, of course, includes residents of the county who live and work in a highly rural environment. There is still considerable acreage devoted to the business of farming and some lumbering activity. No precise family income figure is available for the City of Johnstown. However, there seems to be no disagreement that the cost of living in the area has increased in the last year at a rate of about 6% over the previous year.

The dispute over salary involves a difference of 1% between the positions of the parties. The City would like the panel to award a salary increase of 5.5% for each year of the two-year contract and JFFA demands 6% per year. The City also seeks to have any award made by the panel effective June 1, 1977. The JFFA wants the salary awarded to be retroactive to January 1, 1977, the date upon which the contract in dispute should have become effective. The fact finder in this case recommended an increase of 6% per year. He had before him the identical proofs offered by the parties to this panel.

The panel recognizes the hazardous nature of a fire fighter's duties and the numerous skills he must master to be an effective member of the fire department. We have also considered the comparative salary and benefit tables offered by each party. In each party's exhibits there are certain so-called comparisons which we deem inappropriate and not comparable because of remoteness in distance from Johnstown, location in a large metropolitan area and

vast differences in the population of the communities. The panel does recognize that Johnstown has agreed to pay its fire fighters more than those of some similar communities. However, because of the narrow variation of one per cent between the parties, we think that they themselves have set the economic level within which they agree fire fighters in Johnstown should be paid.

JFFA retained a fiscal expert who examined the public documents filed by the City with the State Department of Audit and Control to report the financial condition of the City. His opinion as well as the public documents indicate that the City is at 43% of its constitutional tax limit and has a fund balance in the general fund as of December 31, 1976 of \$253, 071.63, of which \$90,000.00 was appropriated according to the budget figure provided by the City. It appears that the City is able to pay the additional 1% sought by JFFA. Consequently, the panel awards an increase of 6% per year for each year of the contract. That will result in an increase of starting salary to \$11,332.00 for fire fighters.

The question of emergency sick leave involved a vague city ordinance which both parties wanted to change but could not agree on the mode of change. Consequently, the matter was left to us.

Emergency sick leave is intended to be available for use by a fire fighter suffering from an illness or off-duty injury which will require more sick leave than he has accrued. The City wanted to add 15 days at once to the sick leave accruals of present members of the fire department and permit them to accrue a maximum of

135 days and be charged with use of sick leave on a day off only if there were a recall to duty on that day. (Fire fighters have been required to report sick even on their days off and were charged for use of sick days when off duty.) JFFA sought a fifteen day accrual added at once to each current member of the fire department and anyone who shall become a member during the life of this contract, and permission to accrue a total of 150 days, as well as charge for sick leave on days off only if recalled to duty. Adoption of either proposal would be followed by repeal of or amendment of the troublesome ordinance. The panel adopts and awards the City's proposal in its entirety. We see no reason why future members of the fire department should be awarded this benefit now. It can be extended in some future round of negotiations.

Recall to duty occurs in Johnstown on only three or four occasions a year. Up to now recall has been compensated by payment of about sixteen hours of additional Kelly time in lieu of cash. The City has paid 120 hours of Kelly time instead of 104 which would be paid exclusive of time for recall. The City wanted to retain this mode of compensation for recall. JFFA wanted recall to be paid at the rate of time and one half with a minimum payment for four hours duty if actual recall were shorter.

Recall is clearly within the control of the City as soon as a fire has been brought under control. In the public interest recall should be kept to a minimum to save money. We adopt and award the JFFA proposal for a four hour minimum and time and one half.

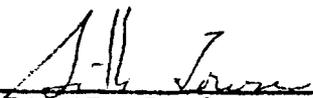
We award as follows:

1. The fire fighters employed by the City of Johnstown shall receive a salary increase of 6% each year from January 1, 1977 through December 31, 1978 over the previous year's salary.

2. The emergency sick leave ordinance shall be repealed or amended so that each fire fighter now employed by the City shall receive on the date of repeal or amendment an additional accrual of fifteen days to be added to whatever sick leave he has accrued on that date, and further that he shall be permitted to accrue a maximum of 135 days of sick leave, and further that he shall be charged for use of sick leave on his days off only if there shall be a recall to duty on such day off when he is ill or injured as the result of an off-duty occurrence.

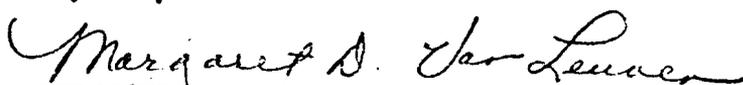
3. Recall shall be paid at the rate of time and one half, and any fire fighter who is recalled to duty from off-duty status or retained on duty shall receive a minimum of four hours recall compensation for each such recall which does not require four hours or more of recalled duty.

DATED: June 23, 1977



SETH TOWSE, Chairman

Sworn to before me this 12th day
of ~~June~~, 1977.
July



NOTARY PUBLIC

MARGARET D. VAN LEUVEN
Notary Public, State of New York
Residing in Albany County
Commission Expires March 30, 1978 -6-

Harvey W. Mansfield
HARVEY W. MANSFIELD
Member selected by City

Sworn to before me this 11th day
of ~~June~~, 1977.
July

Constance L. Kesner
NOTARY PUBLIC CONSTANCE L. KESNER
Notary Public, State of N. Y.
18-7872360
Resides in Fulton Co.
COMMISSION EXPIRES MARCH 30, 1978

Robert D. Gollnick
ROBERT GOLLNICK
Member selected by JFFA

Sworn to before me this 30 day
of June, 1977

COLLEEN ANN WAGNER
Notary Public, State of New York
Qualified In Albany County
My Commission Expires March 30, 1978
Colleen Ann Wagner 4632387
NOTARY PUBLIC