
In the Matter of Arbitration

Between

Village of Kenmore

and

Kenmore Club Police
Benevolent Association

Award of
Arbitration

Panel

(PERB Case No. IA 83-25)

This interest arbitration was heard on January 13, 1984, at the Royal Knight Restaurant in Tonawanda, New York. The matter was heard by a three-member arbitration panel convened by the New York State Public Employment Relations Board, pursuant to its authority under Section 209.4 of the New York Civil Service Law. Panel members are Capt. Emil Palombo, appointed by the Union; Mr. Norman J. Stocker, appointed by the Village; and Dr. Howard G. Foster, public member. The Union was represented by Detective Kevin Penke, its President, and the Village by Darrell Huckabone, Esq. attorney. Upon completion of the hearing the record was closed.

Background

The Village of Kenmore employs a police department consisting of 27 members excluding the Chief and Assistant Chief. The Kenmore Club PBA is the bargaining agent for the unit comprising three captains, four lieutenants, one juvenile officer, three detectives and sixteen officers. The most recent collective bargaining agreement between the parties was effective from June 1, 1981 to May 31, 1983. On November 26, 1982, the Union initiated bargaining on a successor contract with thirteen proposals. The Village made one

proposal. On August 31, 1983, following mediation, none of the issues had been settled, and the Union petitioned for arbitration. The arbitration panel was appointed on November 1, 1983.

General Observations

The differences between the parties are largely economic. Although we will be addressing a few matters of contract language below, they are not at the core of this controversy. The Village does not, by and large, have any serious quarrel with the Union's proposals on principle; its concern is with the aggregate cost of the economic "package." Accordingly, it will be useful to examine the situation in Kenmore generally before we address each item, individually.

The Union argues that comparisons with police departments of comparable size, location, and character in the region show its members to be lagging. "In comparing Kenmore with the other two first class villages, and with the five major towns in Erie County, it becomes apparent that Kenmore is the lowest paid major police force in Erie County." (Brief, p. 3.) The Village, for its part, urges that the relevant comparison is with other villages in the area, and by this standard Kenmore's police officers are reasonably compensated. The Village notes that it has offered wage increases far in excess of recent rises in the cost of living, and that many of the Village's taxpayers are unemployed or on fixed incomes and cannot afford higher taxes.

It is hard to find fault with any of these arguments. While Kenmore's standards are in fact well within the prevailing range among area villages (e.g., higher than Blasdell and Angola,

about the same as East Aurora, lower than Depew, Hamburg and Lancaster,) they are substantially below those of virtually all suburban towns, and most notably Tonawanda, within which the Village of Kenmore lies. At the same time, these towns have considerably larger tax bases with a larger industrial component. It seems to be no accident that villages generally pay less than Towns generally.

By the terms of the Taylor Law, we are required somehow to balance these sometimes conflicting considerations. We believe we have done so, with an award that will provide Kenmore police officers with improved standards at least as significant as those won elsewhere, at the same time avoiding the placing of an unreasonable burden on the Village's taxpayers. The overall cost of the award is consistent with the cost of recent public sector settlements, though higher than the private sector average. It also seeks to address a number of non-monetary concerns expressed by both sides.

Salary

The Union proposes a salary increase of nine percent in each year of a two-year agreement. The Village proposes 5.5 percent for 1983-84 and 6.0 percent for 1984-85. The Union's proposal seems to us clearly excessive; even in the public sector there have been few settlements that high. On the other hand, were we dealing with salary alone, we would regard the Village's offer as below a reasonable resolution. However, since we will be awarding other economic improvements below, we find the Village's position justified.

Award: each salary specified in Section 8.01 shall be increased by 5.5 percent effective June 1, 1983, and by an additional 6.0 percent effective June 1, 1984.

Longevity

The Union proposes an increase of \$100 at each longevity step. The Village seeks no change. The Union points out that longevity pay has not been increased in ten years, a point we find generally persuasive. We are therefore prepared to endorse the Union's proposal, except that we do not wish to impose an untoward burden on the Village's current budget. Accordingly, we make the following Award: longevity payments outlined in Section 8.05 shall be increased by \$100 each, effective June 1, 1984.

Holidays

The Union proposes one additional holiday, and the Village offered one holiday as part of a negotiating package. This thirteenth holiday would bring Kenmore up to the number granted in many other area departments and is wholly justified. Award: Christmas Day shall be added to the list of holidays in Section 8.06.

Cleaning Allowance

The Union proposes an increase in the uniform cleaning allowance of \$50 to \$350. While the current allowance is not out of line, there are other departments paying even more than \$350. The Village does not have a serious quarrel with this proposal. Award: The cleaning allowance in Section 8.08(2) shall be increased to \$350., effective retroactively with the payment made in December 1983.

Tuition and Fees

The Union proposes a rewording of Section 8.10 to allow a greater opportunity for officers to gain financial support for work-related education. The thrust of the proposal is wholly reasonable and we endorse it. Award:

8.10 Tuition and Fees - The Village will provide books for and pay the full cost of all tuition and fees of all police officers who, when designated by the Chief and have the approval of the Village Board, attend and complete successfully college accredited courses leading toward a degree in a police related field.

Payment shall be made as follows:

1. All expenses mentioned upon presentation of evidence of successful completion of individual courses; and
2. All expenses previously unreimbursed to be paid in a lump sum upon completion and receipt of an Associate's Degree.

It is understood that, upon completion of such course, a police officer is expected to remain in the service of the Village for one (1) year. In the event he leaves before the completion of such year, he is obliged to reimburse the Village for such expenses and the Village may withhold such amount from his pay and entitlement.

Shift Differential

The current agreement pays a shift differential of 10¢ per hour on the afternoon shift and 15¢ per hour on the night shift. The Union proposes increasing the differential to 2 and 3 percent of salary, respectively. The Village proposes an increase of 5¢ for each shift.

We find the Union's position on this issue generally

persuasive; the current differential does seem inadequate to compensate for the inconvenience of working off-hours. The inadequacy of the differential is best demonstrated by the fact that most officers transfer to days as soon as they can. At the same time, we are not persuaded that the differential should be expressed in percentage terms. Award: The afternoon and night differentials shall be increased to 15¢ and 20¢ effective February 5, 1984, and further increased to 25¢ and 30¢ effective June 1, 1984.

Sick Leave

For a number of years the Village has had an extra-contractual program to discourage use of sick leave, under which officers were given increasing amounts of compensating time off for not using sick leave. The Union proposes simplifying the program by awarding four hours of compensatory time for any month in which an officer uses no sick leave, and putting the simplified plan into the Agreement.

While we are sympathetic to codifying a practice of such long standing, we are not persuaded that the Union's "simplification" would serve the same purpose as the original plan or be as effective. Accordingly, we make this Award: The following language shall be added to Section 9.02:

9.02B Sick Time Incentive - Whenever a police officer has six (6) months of continuous service without having any sick time off, such officer shall be awarded eight (8) hours of compensatory time.

If said police officer continues for an unbroken period of twelve (12) months, such officer shall be awarded an additional

sixteen (16) hours of compensatory time.

If the string remains unbroken for eighteen (18) months the police officer will be granted an additional eight (8) hours.

At the continuous twenty-four (24) month mark, the police officer is awarded thirty-two (32) hours.

At the continuous thirty (30) month mark the police officer is awarded eight (8) hours.

At the continuous thirty-six (36) month mark, the award is for forty-eight (48) hours.

A police officer continues to draw eight (8) hours at the six (6) month mark and forty-eight (48) hours at the end of each twelve (12) month period providing that the police officer's attendance remains unbroken for sickness. Should the string be broken the police office starts all over at the beginning, as above.

For the purpose of computing the aforementioned periods the Village fiscal year (June 1 to May 31) will be used in all cases.

The Chief of Police has the absolute discretion, and not subject to the grievance procedure, to waive the unbroken string requirement, or a portion thereof, if in his opinion, the police officer takes sick leave for a major medical reason.

Organizational Leave

The Union proposes increasing the number of officers allowed to attend a statewide convention of the Union without loss of pay. We are not persuaded of the merits of this proposal.

Award: The proposal is denied.

Vacations

The Union proposes additional vacation time and also an expanded capacity to "sell" their vacation time back to the Village. The Village urges no change in the current procedure. In our judgment, the vacation allowance in Kenmore is comparable with other police departments and the case for more time is not compelling. On the other hand, the principle of converting vacation time to cash is already established in the Agreement, and as long as most of the potential cost is controllable by Village officials, we see merit in making the option more accessible to members of the bargaining unit. Award: Section 11.02 shall be revised as follows:

A police officer entitled to vacation may apply to the Village for, and be granted, an opportunity to work up to five days of his vacation period and be paid therefore in addition to his vacation pay. Said application must be filed with the Police Chief 30 days prior to its desired effective date. A police officer who elects to work five days of vacation may apply to the Chief of Police and Village Board to work additional days of his/her vacation allowance, but the Chief of Police and Village Board shall have absolute discretion in either granting or denying said application and no grievance or arbitration may be filed by the employee or the Association seeking to vacate or set aside the decision made by the Chief of Police and Village Board on the application so made.

Health Insurance, Dental Insurance

The Union proposes certain improvements in health and dental insurance coverage of employees and retirees. Given the need to keep the overall package within reasonable bounds, this proposal strikes us as dispensable. Award: The proposals are denied.

Promotions and Transfers

The Union notes that Section 14.01 of the Agreement is obsolete and requires updating. There is no serious controversy over this proposal. Award: Section 14.01 shall be revised as follows:

The Village agrees to call for examinations for promotions, each time that the County conducts such tests, but in no case at a more than two year interval in each category. The Village agrees not to extend the life of any list past its usual expiration time. The Village agrees not to make temporary promotions except in emergencies and that personal ratings of individual members shall not be used to affect competitive ranking or rating.

The Village agrees that all eligible members will have the opportunity to compete in each examination for which they are qualified with any necessary time off to be provided without loss of pay or time. Staffing, during examinations, to be done with non-competing ranks if necessary. The KPBA agrees that no members will receive compensation for taking examinations while not on duty and that members taking exams during working hours will be granted time off equal to the time necessary to take the examination plus travel time.

Educational Incentive

The Union proposes a plan of salary increments for work-related educational attainment. While we see some merit in this proposal, we are constrained by the need to limit the size of the overall economic package. Award: The proposal is denied.

Vacation Allowance

The Village's only proposal would fix the vacation allowance during a fiscal year. We find this proposal reasonable. Award: Section 11.01 shall be revised as follows:

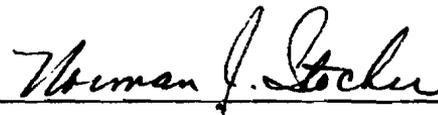
Add to 11.01

(The amount of vacation time shall be fixed at the start of the fiscal year for new employees hired after June 1, 1983.)

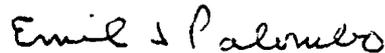
Respectfully submitted,

 2/14/84

Howard G. Foster, Chairman



Norman J. Stocker, Employer Panel
Member



Emil J. Palombo, Employee Organiza-
tion Panel Member