

NYS PUBLIC EMPLOYMENT RELATIONS BOARD
RECEIVED
DEC 27 1988
CONCILIATION

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of the Compulsory
Interest Arbitration
Between

CITY OF NIAGARA FALLS,
Employer,
and
NIAGARA FALLS POLICE CLUB, INC.,
Employee Organization

PERB Case Nos.
IA 87-32;
M 87-413
JS Case No.
1346
DDS No. 89-3

**OPINION
AND
AWARD**

Before the Public Arbitration Panel:
JOHN E. SANDS, Public Member and Chairman
DAVID FABRIZIO, Employer Member
CHARLES ANSEL, Employee Organization Member

OPINION

This compulsory interest arbitration case arises under Section 209 of the New York Civil Service Law. The employee organization served its petition commencing this proceeding on March 9, 1988; and the City responded on March 18th. On May 2, 1988 PERB Chairman Harold R. Newman advised the parties of PERB's determination that their dispute comes under Section 209.4's provisions and of PERB's designation of this Public Arbitration Panel to hear and determine their dispute.

Pursuant to our statutory authority we conducted hearings in Niagara Falls, New York on September 1 and 2, 1988. Both parties appeared by counsel and had full opportunity to adduce evidence, to crossexamine each other's witnesses, and to make argument in support of their respective positions. We have considered the entire record so produced in light of Section 209.4(v)'s specified criteria:

- a. comparison of the wages, hours and conditions of employment of the employees involved in the arbitration proceeding with the wages, hours, and conditions of employment of other employees performing similar services or requiring similar skills under similar working conditions and with other employees generally in public and private employment in comparable communities.
- b. the interests and welfare of the public and the financial ability of the public employer to pay;
- c. comparison of peculiarities in regard to other trades or professions, including specifically, (1) hazards of employment; (2) physical qualifications; (3) educational qualifications; (4) mental qualifications; (5) job training and skills;
- d. the terms of collective agreements negotiated between the parties in the past providing for compensation and fringe benefits, including, but not limited to, the provisions for salary, insurance and retirement benefits, medical and hospitalization benefits, paid time off and job security.

On the entire record, and on our assessments of witnesses' credibility and the probative value of evidence, we have reached the following findings of fact and determinations of the matters in dispute.

SALARY ISSUES

The parties' prior agreement expired on December 31, 1986. (Joint Exhibit 1.) In late October 1987, a Public Arbitration Panel chaired by Philip J. Ruffo issued a compulsory interest arbitration award effective January 1, 1987, extending that contract for one calendar year and providing a \$2,000 across-the-board salary increase to all unit members (plus an additional 5% to most CID and CIU members). The Ruffo panel award produced a maximum base salary rate for grade 3 police officers effective December 31, 1987 of \$23,752. That figure was substantially below both the \$26,823 1987 average for Western New York communities among the Police Club's "comparables" and the \$25,241 average in upstate cities with more than 25,000 population that the City urges as comparable.

Niagara Falls' police officers have fallen substantially behind their firefighter counterparts in annual salary. As of December 31, 1987 Grade 3 Step 3 police officers with fifteen years' service earned \$24, 518. Similarly qualified and experienced firefighters received \$27,050.40. That annual difference of more than \$2,500 has grown with the firefighters' negotiated increases for 1988 of 5% plus \$300 longevity at the 5,10,15,20,25 and 30-year steps, and, for 1989 of 5 1/2% plus \$50 across the increment schedule.

That disparity between police and fire wage rates began in 1986, when the City was suffering severe fiscal woes. In lieu of cash wage increases, the Police Club negotiated a "4 plus 2" schedule that was becoming progressively more common for police units in New York State. That new schedule required seventeen less tours per year for the same compensation. That, argues the City, was equivalent to a 7% wage increase.

At the time of this case, Niagara Falls' fiscal situation had substantially ameliorated. We find credible and persuasive the Police Club's municipal finance expert's findings, summarized at page three of Police Club Exhibit 3. Based on those data, we conclude that the City is financially able to pay for the economic increases this Award requires. Moreover, we conclude that it is in the interests and welfare of the public for the City to be able to recruit and keep in employment capable police personnel. And we are convinced that the City's current rates place it at a competitive disadvantage for that purpose vis-a-vis comparable communities and its fire service.

We have also found that the many similarities between police and fire service in terms of hazards and physical qualifications cannot justify the current wide gap in compensation levels for the two. We recognize as well that, as the 4 plus 2 tour has become a more common scheduling basis for police departments, the compensation differential between police and fire service has become correspondingly less supportable.

We have therefore decided to restore police compensation to an equity with that of firefighters during 1988 and to grant police the same increases for 1989 as the City negotiated for its firefighters. That concept of equity requires police personnel to receive the same salary as their firefighter counterparts in the same grade, step, and longevity categories. During our executive session, the Public Arbitration Panel focused on the above-mentioned example of a fifteen year, third step, grade 3 police officer. It was our intention that, as a result of this award, such an officer's 1988 annual salary rate be \$27,050.40, the same rate as a similarly-situated firefighter. (In that Executive Session, we took arbitral notice that, having the foregoing example and expression of intent, the parties would have no trouble with the ministerial steps necessary to construct an appropriate wage schedule for the remaining steps, grades, and increment levels; and we direct that the parties do so.)

To keep the cost of this package within an appropriate range, we have limited the retroactive impact of that increase for 1988 to that year's last nine months. In other words, the new compensation rates will be effective as of April 1, 1988. For the fifteen year, grade 3, step 3 police officer at an annual compensation rate of \$27,050.40 effective April 1, 1988, that increase would amount to about 10% on his salary rate, but cost the City only about 7% for 1988. For the entire unit the 1988 increase we provide is well within the City's ability to pay. The 1989 increase, 5 1/2% plus \$50 on each increment step, matches the City's cost for its firefighters and represents the City's last offer in negotiations with the Police Club. It is therefore clearly within the City's own assessment of its ability to pay.

As to the additional salary demand raised by the Union that sub-section 7.13.3's two-hour pay per payroll period be extended to an additional twenty-five police officers, on the entire record before us we find insufficient evidence to support any change of the status quo; and we so rule.

NON-SALARY ISSUES

Shift Differential

The current shift differential for police officers is twenty cents per hour for afternoons and thirty cents per hour for nights. That differential has been constant since 1986 and did not increase when the Ruffo Panel Award increased

salaries in 1987. As a result, the percentage value of shift differentials has dropped as salary levels increase. The Union accordingly seeks a raise of those levels to thirty cents and forty-five cents for the two shifts or 2% and 3% to avoid the need for future negotiations over periodic adjustments. The City responds that the current shift differential is "not out of line."

On the entire record before us we are convinced that the shift differential should be increased to thirty-five cents per hour for all work performed between 4:00 P.M. and 8:00 A.M., effective April 1, 1988. That outcome is justified by our intention to provide equity between police and fire compensation levels and we so award.

Uniform Allowances

Niagara Falls currently provides police officers' initial uniforms plus an annual allowance of \$240 for replacements. That program is substantially less than that provided by most cities on both parties' lists of "comparables."

The Union accordingly seeks a \$500 annual uniform allowance for replacements plus \$175 in 1988 and \$200 in 1989 for maintenance expenses.

After considering all of the relevant evidence and the similar benefits provided by comparable communities, we have determined that, effective January 1, 1988 the annual uniform allowance should be increased by \$260 to \$500 per year to provide both replacement items and to provide for maintenance of uniforms, and we so award.

Drug Prescription Benefit

Police officers presently must make one dollar co-payments on all covered drug prescriptions. All other unions representing City personnel have agreed to increase that co-payment from one dollar to two dollars, thereby saving the City four dollars per month per individual. Because we recognize the appropriateness of consistency in the area of such benefits as this, we agree that, effective January 1, 1989 police officers, too, should be subject to the two-dollar co-payment requirement.

Residual Matters.

As to all other demands raised by the parties, there is insufficient evidence on the record before us to warrant a change in the status quo, and we determine and award that there shall be no change.

By reason of the foregoing we issue the following

AWARD

1. Salaries of police officers shall be increased effective April 1, 1988 to levels applicable to firefighters of the same grade, step, and longevity according to the terms set out in the Opinion accompanying this Award.

2. Shift differential shall be increased effective April 1, 1988 to thirty-five cents per hour for all hours worked between 4:00 P.M. and 8:00 A.M.

3. Effective January 1, 1988 uniform allowances shall be increased to \$500 per year to cover both replacement items and maintenance expenses.

4. Effective January 1, 1989 police officers' salaries shall be increased 5 1/2% on all base rates plus \$50 on each increment step at 5,10,15,20,25 and 30 years' service.

5. Effective January 1, 1989 the co-payment on drug prescriptions shall be increased from one to two dollars.

6. By stipulation of the parties, this Award does not apply to Civilian Dispatcher and Communications Technician titles.

7. All other provisions of the parties' collective bargaining agreement shall remain unchanged.

Dated: December 19, 1988
South Orange, NJ



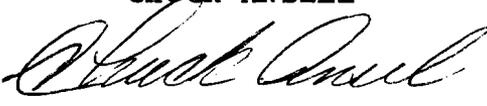
JOHN E. SANDS

Dated: 12/27/88
Niagara Falls, NY



DAVID FABRIZIO

Dated: 12/22/88
Niagara Falls, NY

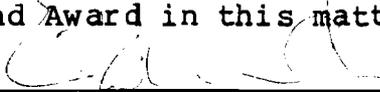


CHUCK ANSELL



AFFIRMATION

Pursuant to Article 75 of the Civil Practice Law and Rules of New York State, I affirm that I have executed the foregoing as and for my Opinion and Award in this matter.



JOHN E. SANDS

AFFIRMATION

Pursuant to Article 75 of the Civil Practice Law and Rules of New York State, I affirm that I have executed the foregoing as and for my Opinion and Award in this matter.



DAVID FABRIZIO

AFFIRMATION

Pursuant to Article 75 of the Civil Practice Law and Rules of New York State, I affirm that I have executed the foregoing as and for my Opinion and Award in this matter.

CHUCK ANSELL