

DC 37 v. City, 11 OCB 6 (BCB 1973) [Decision No. B-6-73 (IP)]

OFFICE OF COLLECTIVE BARGAINING  
BOARD OF COLLECTIVE BARGAINING

DISTRICT COUNCIL 37, AFSCME

Decision No. B-6-73

Petitioner

Docket No. BCB-131-72

-and-

THE CITY OF NEW YORK

Respondent

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DECISION AND DETERMINATION

The union filed a petition herein alleging that the City had violated-§1173-4.2a(1) of the NYCCBL by unilaterally granting certain maternity benefits to-public employees thereby undermining the exclusive bargaining status of the union as City-wide representative of Career and Salary employees.

Issue was joined-by the filing of the City's answer which did not deny bargainability but argued that the United States Equal Employment Opportunities Commission had required the unilateral grant of maternity benefits. Thereafter, the parties entered into a stipulation whereby the union withdrew its improper practice petition and requested the Board, pursuant to its power to determine scope of-bargaining, to decide whether maternity benefits are a proper subject of City-wide bargaining. The City does not dispute that maternity benefits are-a City-wide subject of bargaining.

District Council 37 is the designated representative for City-wide bargaining pursuant to §1173-4.3a(2) of the NYCCBL; it has regularly bargained with the City of New York regarding maternity benefits and the results of such bargaining have been embodied in successive City-wide contracts including the latest contract covering the period July 1, 1970 to June 30, 1973. Furthermore, the Board has considered the bargainability of maternity benefits and has determined that they were within the City-wide scope of bargaining. See City of N.Y. & Social Service Employees Union, Decision No. B-11-68. The parties are engaged in bargaining for a City-wide contract for a term beginning July 1, 1973, and no dispute has arisen with respect to the bargainability of maternity benefits.

Since the parties have not fully argued the effect of the Fair Employment Title of the Civil Rights Act or other Federal requirements on the duty to bargain on maternity benefits, and since the stipulation of the parties and the petition before us present only the question whether maternity benefits are a mandatory subject of bargaining, we decide only that question and do not reach the issue as to the relevance of the Civil Rights Act requirements and their particular effect upon the duty to bargain in the instant matter.

We find, therefore, that maternity benefits are a proper subject for City-wide bargaining.

The rights of the parties regarding further issues that may arise during the current negotiations concerning the bargainability of maternity benefits and the application of Federal requirements with respect thereto are reserved.

DETERMINATION

\_\_\_\_\_ Pursuant to the powers vested in the Board of Collective Bargaining by the New York City Collective Bargaining Law, it is hereby

DETERMINED that maternity benefits are within the scope of bargaining pursuant to §1173-4.3a(2) of the Law.

DATED: New York, N.Y.  
August 8, 1973

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Arvid Anderson  
CHAIRMAN

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Eric J. Schmertz  
MEMBER

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Walter L. Eisenberg  
MEMBER

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Harry Frummerman  
MEMBER

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John H. Mortimer  
MEMBER

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Harry Van Arsdale, Jr.  
MEMBER