

OFFICE OF COLLECTIVE BARGAINING

----- x
In the Matter of the Impasse between
THE CITY OF NEW YORK

-and-

LOCAL 1549, DISTRICT COUNCIL 37

(I-146-79)

----- x
In the Matter of the Impasse between
THE CITY OF NEW YORK

IMPASSE
PANEL'S
RECOMMENDATIONS

-and-

LOCAL 371, DISTRICT COUNCIL 37

(I-147-79)

----- x

The Impasse Panel was appointed to hear the parties and make recommendations regarding the job security provisions in the contracts between the Local Unions and the City.

The City demands that the new contracts with Local 1549 (clerical employees) and Local 371 (social service employees) with the Human Resources Administration (HRA) exclude certain job security provisions found in the contracts which are to be replaced. The Unions want to continue these provisions

in the new contracts.

During negotiations, the City took the position that the provisions in dispute are not mandatory subjects of negotiations. The City, however, has agreed to waive the scope of negotiations question. The Unions have agreed that the City's waiver does not set any future precedent whatsoever.

The parties were heard on October 15, 1979 and were given full opportunity to present their respective positions and arguments. Pursuant to Section 5.10 of the Office of Collective Bargaining's Consolidated Rules a stenographic record of the hearing was made and transcribed by a shorthand reporter. The contract provisions in dispute follow:

CLERICAL CONTRACT

The City proposes elimination of all provisions of Article XX except C and D.

ARTICLE XX - SPECIAL PROVISIONS APPLICABLE TO EMPLOYEES OF THE DEPARTMENT OF INCOME MAINTENANCE

Section 1. Job Security

The Employer's right to reorganize the Department by separating income maintenance functions from social service functions in the Department and the Union's right to negotiate with the Employer on questions concerning the practical impact that such separation has upon employees, such as workload or manning, are hereby recognized. In consideration for the Union's promise of full cooperation in the separation of income maintenance functions from social service functions in the Department and for the increased productivity which results therefrom, the parties agree to the following provisions:

A. No permanent employee on staff as of 1/1/74 shall be laid off, involuntarily demoted, or lose his rank or title as a result of the Employer's separation of income maintenance functions from social service functions in the Department.

B. No permanent employee on staff as of 1/1/74 shall, as a result of the Employer's separation of income maintenance functions from social service functions in the Department, receive a reduction in salary rate. Every permanent employee on staff as of 1/1/74 shall retain all rights with respect to job and salary and shall receive the increases, adjustments, benefits and promotional opportunities provided for employees in his title, if otherwise eligible for such increases, adjustments, benefits and promotional opportunities.

C. Except for temporary special projects or for limited periods of time-the immediate supervisor of Clerks assigned to the Income Maintenance function shall be performed by Clerical-Administrative supervisory employees.

D. Positions evaluated in Clerical-Administrative occupational groups shall not be filled by personnel in the title of Case Aide.

SOCIAL SERVICE EMPLOYEES CONTRACT

The City would eliminate all of the following:

ARTICLE XV - JOB SECURITY

The City's right to reorganize in the Human Resources Administration is hereby recognized. The Union's right to negotiate with the City on questions concerning the practical impact that such reorganization has upon employees covered by this Agreement such as workload or manning, is hereby recognized.

In consideration for the Union's cooperation in any form of reorganization in the Human Resources Administration and for the increased productivity which will result therefrom, the parties agree to the following provisions:

1. No permanent employee on staff January 1, 1974 in a title covered by the 1974-1975 Social Services Employees Union Local 371 Agreement, shall be laid off, involuntarily demoted, lose his or her rank or title, or receive a reduction in salary rate as a result of any form of reorganization in the Human Resources Administration undertaken for the purpose of improving Human Resources Administration programs. All such employees shall retain all rights with respect to job and salary and shall receive the increases, adjustments, benefits and promotional opportunities provided for employees in their title, if otherwise eligible for such increases, adjustments, benefits and promotional opportunities.

2. Any necessary reduction in the total work force required by any form of reorganization in the Human Resources Administration undertaken for the purpose of improving Human Resources Administration programs shall be accomplished by the curtailment of new hirings and by attrition, that is, leaving vacant those positions vacated by employees by reason of resignation, retirement, death, dismissal for cause, etc.

FACTS AND DISCUSSION

The clerical employees involved in the instant dispute are limited to the Department of Income Maintenance.

Prior to 1970 all functions relating to under care recipients were within the ambit of the social service employees. Clerical employees served a support role to the social service employees' responsibilities for initial interview of applicants, for the determination of eligibility, for the decision regarding the amounts they would receive, and the planning for their future.

At some point in 1970 a decision was made to separate income maintenance and social service. Income maintenance was to be removed from social service employees and allocated to clerical employees. Social service employees were to be involved only with social service responsibilities.

It took a few years to complete the program. Aged, disabled, and the blind were phased in first. Singles and families in pilot centers followed. The reorganization was fully effected a few years after its conception.

The substance of the disputed contract provisions were negotiated in an atmosphere of pending change. The provisions assured employees that the reorganization would not result in loss of employment or benefits, and it enlisted their cooperation.

Except for the provision limiting its terms to employees on staff as of January 1, 1974, the provisions of the clerical contract which the City proposes to eliminate have remained unchanged since first negotiated in the 1971-1974 contract.

Likewise, the social service employees contract, among other changes, since first negotiated has been modified to limit its guarantee to staff as of January 1, 1974. Its terms, initially negotiated for the 1969-1970 contract, apply to any

form of HRA reorganization. It had its genesis with the bifurcation of functions, which was the reason for its inclusion and has since been accomplished.

Section 1173-7.0.c(3)(b) of Chapter 54, New York City Charter establishes standards for an impasse panel in making its recommendations. Included are "characteristics of employment of other employees performing similar work and other employees generally in public or private employment in New York City or comparable communities" and "the interest and welfare of the public".

At a time in the past to assure a smooth transition in the separation of income maintenance and social services and allay the fears of the employees, the City guaranteed no loss of jobs, benefits or other rights. The assurances have been honored. Remaining are job security provisions which exist nowhere else in the City. The best interests and welfare of the public are hardly served by contract obstacles to reorganization based on a fact pattern which no longer exists.

In any reorganization, where the work force will be decreased, attrition is obviously preferable to layoffs. However, to prohibit, as the social service employees contract,

any decrease in work force except through attrition could seriously interfere with management's right to change its method of operation. In a time of fiscal crisis attempting to distinguish a reorganization for the improvement of HRA, as provided for in the social service contract, could result in challenge of the economic delivery of services to the public through a new form of delivery.

The fiscal crisis raises concerns regarding layoffs and loss of benefits for all City employees, not only HRA employees. Layoffs for any reason are provided for in Article XVI of the City-Wide agreement.

The City-Wide layoff provisions do not distinguish between layoffs, i.e., whether the primary reason be economy or reorganization for the delivery of services. Thirty days' notice of intent, consultation between the parties, alternatives and actions in lieu of layoffs, the order of layoffs, and recall procedures are among the provisions provided for in the City-Wide agreement.

A City-Wide method for dealing with layoffs exists. There is no apparent reason why contract provisions meant to deal with a reorganization in the first half of the 1970's should continue when protections on a city-wide basis are available to HRA clerical and social service employees.

RECOMMENDATIONS

1. That Article XX, except for provisions C and D contained therein, shall be eliminated in the Local 1549, District Council 37 clerical contract.

2. That all of Article XV shall be eliminated in the Local 371, District Council 37 social service employees contract.

December 19, 1979

Meyer Drucker, Impasse Panel