

International Association of Fire Fighters Union Local No 1747

And

City of Kent

Interest Arbitration

Arbitrator: Robert A. Sutermeister

Date Issued: 08/05/1980

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Case #: 02678-I-80-00070

Employer: City of Kent

Union: IAFF; Local 1747

Date Issued: 08/05/1980

Interest Arbitration

City of Kent

and

International Association of Firefighters

Union Local No. 1747

Date of Hearing:

May 23, 1980

Place of Hearing:

Kent, Washington

Date Post-Hearing Briefs Received:

July 17, 1980

Representing the City:

Mr. Donald E. Mirk

City Attorney

220 Fourth Avenue South

Kent, Washington 98031

Representing the Union:

Mr. Thomas H. Grimm

Attorney at Law

Suite 900, ONB Plaza

10800 Northeast 8th Street

Box C 90016

Bellevue, WA 98009

Arbitration Panel:

City Representative

Mr. Mike Webby

220 S. 4th Street

Kent, WA 98031

Union Representative

Mr. Dale Robertson

504 West Crow Street

Kent, WA 98031

Chairman
Mr. R.A. Sutermeister
University of Washington DJ-10
Seattle, Washington 98195

Background

Negotiations for a 1980-1981 collective bargaining agreement took place from September 9 through December 8, 1979. Mediation was then employed to try to resolve the remaining issues.

Issues

The parties stipulated the remaining issues at arbitration are:

1. Article III - Non Discrimination Clause
2. Article XIV and XV - Discipline and Grievance Clauses
3. Article XI, Sections 2 and 3 - Medical Insurance
4. Article VI - Overtime
5. Appendix A, Section 2 - Longevity
6. Appendix A - Wages

Non-Discrimination Clause

The City proposed a "memorandum of understanding" outside the present contract as follows:

Notwithstanding the national or statewide policies of the Union, it is agreed that the employees in the bargaining unit and the employer are obligated both legally and morally to adopt and implement a nondiscrimination posture with respect to the rights and positions of any and all persons performing City services. This posture shall apply to persons working in both paid and volunteer capacities. The employees agree not to discriminate against such persons on the basis of membership or non-membership in the bargaining unit as well as on the basis of volunteer or non-volunteer status. The employees agree to cooperate with the Employer in the active support and recruitment of volunteers in the furtherance of rendering professional fire services to the community, to insure the proficiency and morale of the volunteer work force, and to refrain from any reference to volunteers, individually or collectively, which would undermine their position or status in the community.

The arbitration panel is not persuaded that such a memorandum of understanding should be mandated because of the following reasons:

1. **Article II, Section 1 already forbids discrimination against any employee or applicant for employment on account of membership or non-membership in any labor union or other employee organization.**
2. **Relations between regular firefighters and volunteer firefighters do not appear to present a continuing problem of a serious nature because**
 - a. **It was 3 years ago that the Chief was told some applicants for volunteer firefighting jobs were treated "coolly" when they visited fire stations.**
 - b. **In 1979, the Chief received only two complaints from some 50 volunteers.**
 - c. **The problem has not been discussed with union officers since 1977 and 1978.**
 - d. **There appear to be other methods of improving relations between regulars and volunteers. There was a committee of union and volunteer firefighters which met in 1978 and 1979 and presumably could be reestablished to deal with problems of cooperation between regulars and volunteers. Possible other options would be a memorandum from the Chief, or discussions between the Chief and union representatives.**

Disciplinary

Article XIV - Disciplinary, Section 4, currently reads as follows:

Section 4 - Agreement - Application Grievances

No action by the Employer shall be considered cause for grievance unless it is specifically alleged that such action represents an incorrect application of the terms of this agreement, or rights, allowed by law.

The City proposed the section be changed as follows:

No action by the Employer shall be considered cause for grievance unless it is specifically alleged that such action represents an incorrect application of the terms of this agreement or rights not otherwise protected by RCW 41.56, Civil Service Rules and Regulations or City Ordinances.

The Union proposed the section by changed as follows:

The Employer shall discipline employees only for just cause, defined as a violation of the department's Rules and Regulations or Policies and Procedures, which are expressly incorporated

herein. Disciplinary action shall be subject to the procedures of Article XV below.

The Panel is not receptive to the Union's proposal because:

1. The Union made no proposal for change in this article during negotiations.
2. The Union's proposal that the Employer discipline only for just cause is already contained in Article XVIII (the employer retains the right. . . to discipline. . . for cause) and in Article 10 of Department Rules and Regulations.

Neither is the panel receptive to the Employer's proposal because:

1. There was no evidence of problems presented by the current wording of Article XIV, Section 4.
2. There was no evidence that the parties have negotiated whether or not they wish disputes or grievances arising under Civil Service regulations to be resolved solely through Civil Service channels, disputes under RCW 41.56 to be resolved only through the Public Employment Relations Commission, and only disputes arising under the collective bargaining agreement to be resolved through the grievance procedure.

Thus the panel believes there should be no change in Article XIV Section 4 until such change is negotiated by the parties themselves.

Article XV - Grievance Procedures

This article in the 1979 agreement reads in part as follows:

Grievance is hereby defined as the question or challenge raised by an employee or the Union as to the correct interpretation or application of this agreement by the Employer....

The Union proposes a change as follows:

Grievance is hereby defined as a question or challenge raised by an employee or the Union to the action by the City applying or interpreting this agreement or violating rights allowed by law (except, as to rights covered by Civil Service Rules and Regulations)....

The parties seem to be in agreement that grievances involving rights under Civil Service Rules and Regulations shall be resolved through that machinery and not through the collective bargaining agreement. If

so, the parties may wish to execute a memorandum of understanding to that effect. It appears to the panel as if there has been little or no effort by the parties to negotiate on this issue and there should be no change in Article XV until such change is negotiated by the parties themselves.

Medical Insurance

Under the 1979 agreement, LEOFF 1 employees received fully paid health and accident and dental insurance with no deductibles, and LEOFF II employees had an option of selecting between health care plans with deductibles. Also, under the 1979 agreement, the City paid up to \$72.78 for dependent coverage.

The Union proposal is that the City pay the deductibles for LEOFF II employees, and pay full dependent medical premiums.

The City proposes no change for LEOFF II employees, and that the City pay premiums to provide existing coverage levels based on rates in effect on January 1, 1980, provided the City's wage proposal is accepted by the Union. The City further proposes to update its contributions in 1981 based on the rate schedule in effect January 1, 1981.

The panel finds the City's argument for not paying medical deductibles for LEOFF II employees more persuasive, and consistent with practice in comparable cities.

Since the Union did not accept the City's wage proposal in negotiations, the City's offer to pay full medical coverage for dependents was automatically withdrawn. The City's offer in arbitration is to continue to pay up to \$72.78 per month toward dependent coverage in 1980; and for 1981, if premiums increase above \$72.78, the City and the employee each pay one half of the excess over \$72.78. The present premium has dropped by \$9.85 for 1980 and may well remain under \$72.78 for 1981. The panel believes this offer is fair and reasonable and should be included in the 1980-1981 agreement.

Overtime

Article VI, Section 1 in the 1979 agreement reads as follows:

. . .The overtime rate of pay shall be determined from a straight time hourly rate which shall be computed by dividing annual salary by 2080 hours...

The Union proposes no change of this provision for the 1980-1981 agreement.

The City proposes a distinction between "scheduled" and "unscheduled"

overtime. **Unscheduled (emergency) overtime would use the 2080 hour base, but scheduled overtime (non-emergency) would use a 2808 hours per year base. (Kent firefighters have a work week of 54 hours or 2808 hours per year.)**

Data presented to the panel at the hearing showed 4549 hours of non-emergency overtime worked between September 12, 1978 and August 18, 1979. On the basis of 2808 hours per year, this would translate into a little less than two additional firefighters for each shift. In 1980 two additional firefighters for each shift have already been added, yet no data were given to the panel to show the effect of these 6 additional firefighters on overtime. There was testimony, however, that overtime would be reduced appreciably as a result of the added personnel.

The City has some degree of flexibility to balance the number of firefighters and the amount of overtime worked. Since it appears that overtime costs in 1980-81 are likely to diminish greatly with added personnel, the panel believes there should be no change in the overtime provision in the 1979 agreement

Longevity

The 1979 contract calls for 2% longevity after 5 years and 4% after 10 years of service. The City proposes no change, and the Union proposes 6% after 15 years and 8% after 20 years of service. Three Kent firefighters will reach their 15 years service in 1980 and one more in 1981.

The panel feels any longevity provision for 20 years service should be negotiated between the parties since it will be at least 5 more years before any firefighter has completed 20 years' service.

As for 15 years service, of seven cities on the Union's list of comparable cities) Bellevue and Kirkland have no longevity provision. Lynnwood has no provision for 15 years; Puyallup provides for 2% after 15 years; Everett for 5.5% after 12 years; and Auburn and Renton provide 6% after 15 years.

Of the five cities on the City's list of comparable cities, no information was furnished on Bremerton. Bellingham and Kirkland have no longevity provision; Olympia provides 2% after 15 years; and only Auburn provides 6% after 15 years.

Comparing Kent with the two lists of comparable cities, the panel concludes that there should be no change in longevity.

Wages

The following table shows the 1979 wage scale, the City's offer for

1980 in dollars and percentage increase, and the Union's request for 1980 in dollars and percentage increase.

	City Offer 1980			Union Request 1980	
	<u>1979 WageDollars</u>		<u>%</u>	<u>Dollars</u>	<u>%</u>
Probationary	1204	1330	10.5	1388	15.3
Third Class	1313	1450	10.5	1527	16.3
Second Class	1433	1583	10.5	1640	14.4
First Class	1566	1730	10.5	1768	12.9
Lieutenant	1686	1875	11.2	1949	15.6
Captain	1807	2009	11.2	2145	18.7

The panel agrees with both parties that Kent is unique and that determining "cities of comparable size" is difficult at best. The parties have not agreed on a list of cities which can be used for comparison purposes. Each party presented its own list. Auburn and Kirkland are the only cities on both lists.

Among the guidelines set forth in RCW 41.56.460, the panel has placed major emphasis on (1) wages, hours and conditions of employment in the comparable cities listed by the parties, and (2) cost of living.

The present relationship among salaries of firefighters at different ranks is the result of past bargaining by the parties. The Union's wage proposal would drastically alter the current relationship, increasing one rank as much as 45% above another rank¹. The panel feels that if major adjustments are to be made to the present relationship among ranks, such adjustments should result from negotiations and not from an arbitration award.

The panel further believes that CPI figures introduced for 1980 should not be considered. If negotiations had been concluded on time, before the end of 1979, the parties would have used cost of living figures available in 1979. The panel believes it should encourage the parties to settle the wage issue themselves in future years, and that using 1980 cost of living figures for an arbitration award would only encourage one or the other part to delay future settlements until figures more favorable to their side became available.

An increase of 18.7% for Captains is 45% more than an increase of 12.9% for first class firefighters.

Wages for 1980. It is the judgment of the panel that an increase of 12% is proper for probationary, third class, second class and first

class firefighters, and an increase of 12.7% for Lieutenants and Captains. We recognize that 12% is slightly higher than the increase in cost of living from November 1978 to November 1979. However, it seems fair and reasonable in relation to what cities on the two lists of comparable cities are paying, as indicated below:

	<u>Panel decision</u>	<u>Average salary for Kirkland & Auburn (on both lists)</u>	<u>Median salary calculated from City's list of comparable cities</u>	<u>Median salary calculated from Union's list of comparable cities</u>
Probationary	1348	1369	(not supplied) ¹	1370
Third Class	1471	1531	(not supplied)	1563
Second Class	1605	1649	(not supplied)	1670
First Class	1754	1774	1688	1795
Lieutenant	1900	1988	1883	2023
Captain	2036	2177	2066	2251

Wage increases are retroactive to January 1, 1980.

¹ City exhibit 27 listed 1980 wage settlements only for first class firefighters, Lieutenants and Captains.

Wages for 1981. The Union requests that Kent firefighters receive the average salaries paid firefighters in 1981 in the seven cities on the Union's list of comparable cities. The City's proposal for 1981 is to grant 80% of the change in the Consumer's Price Index from July 1979 to July 1980, with a minimum of 8% increase and a maximum of 10% increase, for firefighters below the rank of Lieutenant. Lieutenants and Captains would receive 1/2 of 1% additional.

The panel agrees with the City that the actual increase in "cost of living" is likely to be less than the increase in "CPI" and that the City's offer to pay 80% of the increase in CPI is reasonable. However, we believe the maximum on the City's offer should be 12% rather than 10%, consistent with the agreements between the City and the police clerks, and between the City and public works and parks employees. In our judgment, this would provide the firefighters with reasonable protection against the ravages of inflation, and provide the City with a reasonable limit to runaway costs.

Summary

The panel has come to the following conclusions for the 1980-1981 agreement between the City of Kent and LAFF Local 1747.

1. **There should be no change in Article III - Non discrimination clause.**
2. **There should be no change in Article XIV, Section 4. If the parties agree that grievances involving rights under Civil Service Rules and Regulations should be resolved through Civil Service machinery and not through the contract grievance procedure, they may wish to work out a memorandum of understanding to that effect.**

There should be no change in Article XV.

3. **The City is to pay up to \$72.78 per month toward dependent medical coverage in 1980. In 1981 the City is to pay up to \$72.78 per month toward dependent medical coverage, plus one half of the premium cost above \$72.78.**
4. **There should be no change in Article VI, Section 1 - Overtime.**
5. **There should be no change in Appendix A, Section 2 - Longevity.**
6. **For 1980 wage increases are 12% for probationary, third class, second class, and first class firefighters; and 12.7% for Lieutenants and Captains. These increases are retroactive to January 1, 1980.**

For 1981, wage increases will be 80% of the change in the CPI (Wage Earners) between July 1, 1979 and July 1, 1980, with a minimum of 8% and a maximum of 12% for probationary, third class, second class and first class firefighters. Lieutenants and Captains are to receive 1/2 of 1% additional increase.

**Seattle, Washington
August 5, 1980**

R. A. Sutermeister, Chairman

Dale Robertson, Union Representative

Mike Webby, City Representative