

Before
Rex H. Wiant
Arbitrator

*****)
In the matter of arbitration between:)
City of Davenport, Iowa)
Police Department)
and)
Union of Professional Police)

Impasse Arbitration

PERB 196/2

For the Employer:

Richard Davidson, Chief Spokesman and Attorney
Rand Wonio, Attorney
Alan Guard, Chief Financial Officer
Dawn Sherman, Director of Human Resources
Brandon Wright, Budget Manager

For the Union:

Jennie Clausen, Chief Spokesman and Attorney
Alicia Gieck, Attorney
Shannon Shaw, CPA
Shawn Roth, Union President

Jurisdiction:

The parties selected Rex H. Wiant from a list provided by the Iowa Public Employment Relations Board. A hearing was held on August 1, 2012 in the City Council Chambers of Davenport, Iowa. Both sides presented complete cases. All evidence was subject to cross examination. The hearing was closed with final arguments because of the tight statutory timelines.

RECEIVED
2012 AUG -9 AM 8:24
PUBLIC EMPLOYMENT
RELATIONS BOARD

Background:

The City of Davenport (hereinafter the “Employer”) is one of the largest and oldest cities in the State of Iowa. Sitting on the banks of the Mississippi River, it is one of what is called the “Quad Cities”. It is approximately halfway between Des Moines and Chicago. The population is slightly under 100,000. It has a diverse economy.

The Davenport Police are a paramilitary organization whose mission is to protect and serve the population of Davenport. The Union of Professional Police (hereinafter the “Union”) represents approximately 148 police officers.

Findings of Fact:

The parties bargain under the Iowa Public Employment Relations Act. They began bargaining in the fall of 2011 and have completed all steps in bargaining. Both sides noted numerous tentative agreements had been achieved. At the beginning of the hearing the parties agreed that there were five issues to come before the Arbitrator. During the hearing the parties settled one issue dealing with Sick Leave. The four remaining issues are: general wage increase, health insurance employee contribution, tuition reimbursement and vacation accumulation.

Iowa law is very clear regarding the factors that Arbitrators must examine in an impasse case. Section 20.22(9), Iowa Code, requires that in addition to other relevant factors, the Arbitrator must consider the following:

- Past Agreements
- Comparability
- Ability to Pay
- Standard of Service

The Arbitrator reviewed all factors. The Employer stipulated they were not making an Ability to Pay argument. The City focused its argument on Comparability and Standard of Service. The Union focused on Comparability.

Issue 1. General Wage Increase.

- Employer Position: 0% general wage increase.
- Union Position: 2.5% general wage increase.

There is an economic cost behind all issues presented to the Arbitrator. Both sides made the argument of economic cost a large part of their presentations. It is easiest to begin this decision with a review of the major arguments. The most significant is the Employer's stipulation that it was not making an "ability to pay" argument. It could afford either position presented. The Employer chose instead to make a standard of service argument. In other words, if the Union's position were selected, that the economic ripple effect would be negative. In making that argument they did not say what those negatives would be or explain the impact of what they see as an adverse decision. Without those details the argument has minimal impact.

The Employer did argue that Iowa law provides for specialized funds. Each fund has statutory limits on what they can be used for by the Employer. For example the Trust and Agency fund may not be used for salaries. The Arbitrator understands this point but by stipulating that the Employer can afford both positions, the source of the funds is not in dispute. Generally speaking the last thing you want to do is have an Arbitrator mucking around in a detailed budget.

The Employer also argued that the contribution rates for retirement would be rising from 24.76% to 26.12%. This is correct but that fund has a history of moving like a roller coaster, peaking in 2006 at 28.21% and bottoming out as recently 17.00% in 2010. Iowa historically has had a fiscally sound retirement systems. All one has to do is cross the river into Illinois to find retirement funding to be at less than 50% of what is needed. This is a cost that all cities and counties pay.

The Employer argues that the city bond rating would suffer if the Union position is selected. This Arbitrator does not find either written or verbal arguments from bond rating agencies to be persuasive.

The Union argues that the Employer could pass a franchise tax on natural gas usage. Passing tax increases are a political decision. If they want to impact that then the Union may back political candidates. It was argued by the Employer that a franchise tax was regressive. The Arbitrator thought this was an interesting argument because the bulk of its budget was from a much more regressive property tax.

Neither side presented evidence on internal or external historical settlements.

The biggest argument by each side was comparability. The Employer argued that all other city unions settled three year agreement (year one-0%, year 2-1%, year 3-1.5% on 7/1, 1.5 on 1/1). The Union argues the average settlement for large Iowa cities was 2.4%.

First, Iowa law limits the Arbitrator to a one year agreement. Future increases with other unions were not considered.

Second, each side defined comparability in a different way. The Employer only looks to its settlements with its other five bargaining units represented by AFSCME, ATU, Teamsters and the Firefighters. The Union looks to police settlements in major cities across Iowa. The Union also brings in the neighboring community of Bettendorf and Scott County. In the eyes of the Arbitrator, they all are right. Comparability under Iowa law is more than a strict comparison of one policeman to another. Section 20.22.9b of the Iowa Code states:

Comparison of wages, hours and conditions of employment involved public employees with those other public employees doing comparable work, giving consideration peculiar to the area and the classifications involved.

Here we are looking at a general wage increase. The settlements of the other governmental units are more important to Arbitrators than other industrial cities. The Union argues that this could result in a significant deterioration in pay over a period of years. This is a projection that may or may not be true. If it does become true then the Union's group of industrial cities would carry more weight.

When we examine the industrial cities group, the Employer proposal results in a decrease in rank from second to third. The Union proposal results in an increase from second to first. This Arbitrator prefers to select a position that does not change the rankings, but he does not have that choice here.

The Arbitrator must select the "most reasonable offer" and that is the offer of the Employer. It is what other Unions have voluntarily accepted. If it is as bad as the Union argues then they can use this award in negotiation and future hearings.

Conclusion of Law: the Arbitrator selects the Employer position on wages.

Issue 2. Health Insurance.

Current employee contribution:

Single \$30

Employee and Dependent \$52.50

Family \$75

- Employer Position: Increase employee contribution:

Single \$36 (+\$6)

Employee and Dependent \$63 (+\$10.50)

Family \$90 (+\$25)

- Union Position: No change.

Once the wage issue is decided then it casts a shadow on the other major economic issue of insurance. The Employer position of increasing employee contributions in

light of a zero percent general wage increase is not tenable. No other Employer unit has seen its contributions increased.

The one thing that can be said for certain is employee contributions will be increasing but that is for the future.

Conclusion of Law: the Arbitrator selects the Union position on health insurance.

Issue 3. Tuition Reimbursement.

Current contract \$1,100.

- Employer Position: No change.
- Union Position: Increase to \$2,000 a year.

Tuition reimbursement is a minor benefit. Less than five percent take advantage of this benefit. Only two other cities offer it as a benefit. No information was given about other Employer units. It is best left to the parties to negotiate.

Conclusion of Law: the Arbitrator selects the Employer position on tuition reimbursement.

Issue 4. Vacation Accumulation.

Current agreement:

Years 1-5	80 hours
Years 6-11	120 hours
Years 12-17	160 hours
Years 18-23	200 hours
Years 24+	240 hours

- Employer Position: No change.
- Union Position: Increase as follows:

Years 1-5	86 hours (+6)
Years 6-11	129 hours (+9)

Years 12-17 172 hours (+12)

Years 18-23 215 hours (+15)

Years 24+ 218 hours (+18)

Vacation accumulation is more of an economic item than most people want to admit. By increasing the number of hours the Employer will pay individuals for not working and will have to pay another employee to cover the open shifts. Many police positions cannot go unfilled. When one officer takes time off another must work those hours. The costs or feasibility of this proposal were not presented.

The Union said that this came about from a survey from all officers. Patrol officers overwhelming asked for more vacation because work is scheduled for 37 hours one week and 43 hours the next. This is the schedule that they produced and bargained for in previous contracts. They did not want to take 43 hours of vacation to take a week off. The solution is easy, by shifting their time off one week they will only have to take 37 hours of vacation to take a week off.

Conclusion of Law: the Arbitrator award the Employer position on vacation accumulation.

This award is retroactive back to July 1, 2012.

Sincerely,



Rex H. Wiant

Arbitrator

Dated on August 7, 2012 in Kansas City, Missouri.