

AWARD

In the Matter of:)	
)	
City of Dubuque)	
Public Employer)	
)	Micheal L. Thompson
And)	
)	Arbitrator
Dubuque Professional Firefighter's)	
Association, Local #353)	
Public Employee Association)	

Appearances:

For the Employer:

Randy Peck, Personnel Manager
Mark Burkle, Fire Marshall

For the Public Employee Organization:

Stephen J. Juergens, Attorney
Robert Rehfeldt, President Local 583
Michael Lynch, Vice President, Local 353 (Firefighter)
Jerrod Atkinson, Lieutenant
Martin Fitzpatrick, Fire Equipment Operator Engine 506
Jason Link, Fire Equipment Operator Engine 501

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2014 JUL -7 AM 8:25
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RELATIONS BOARD

STATEMENT OF JURISDICTION

The matter proceeds to an arbitration hearing pursuant to the statutory provisions established in the Public Employment Relations Act, Chapter 20, Code of Iowa. The above-named arbitrator was selected from a list furnished to the parties by the Public Employment Relations Board. An interest arbitration hearing was held on June 11, 2014 at 10:00 am in Dubuque, Iowa. The hearing was electronically recorded. At the hearing the parties (City of Dubuque, hereinafter Employer and the Dubuque Professional Firefighter's Association, Local #353, hereinafter Association) were given a full opportunity to introduce evidence, facts, and arguments in support of their respective positions. Upon the basis of the evidence, facts, and arguments presented, the following award was made.

STATEMENT OF THE ISSUES and POSITIONS OF THE PARTIES

For the Employer:

Article 12 – Wage Plan

Effective July 1, 2014 through June 30, 2015, the wage plan in effect on June 30, 2014 shall be increased by 1.5% across the board.

Article 14 – Education Pay

Employer

Proposal: Continue with the Existing Language

For the Association

ARTICLE 12: Wage Plan

Firefighter	1.5% Wage Increase
FEO	1.5% Wage Increase
Medical Officer	1.5% Wage Increase
Fire Lieutenant	1.5% Wage Increase
Fire Captain	1.5% Wage Increase

ARTICLE 14 – Education Pay

Delete Sections 1 and 2 and Substitute the following:

SECTION 1

CERTIFICATION LEVEL	PAYMENT
EMT-P	2.5% of Step F Firefighter
EMT-P SPECIALIST	2.5% of Step F Firefighter
EMT-I	2.0% of Step F Firefighter
EMT-B	2.0% of Step F Firefighter

Section 2:

In order to qualify for Educational Pay, employees must complete sixty (60) semester hours of college level coursework at an accredited university or college with a minimum of twelve (12) hours of coursework in professional career development.

A minimum overall grade of “C” will be required.

Courses which are applicable within the twelve (12) required in professional career development are those which lead directly to the enhancement of the employee’s performance of his/her duty as a Firefighter, Medical Officer, Lieutenant, and Captain with the Dubuque Fire Department. Such courses are to include, but not limited to:

- A. Fire Science, Fire Administration, Emergency Service Management, Associates Degree in Paramedic Medicine.
- B. Behavioral and Social Science courses such as American Government, Public

Administration, Legislative Processes, American Political Parties, Judicial Process, Municipal Government and Urbanism, and American Constitutional Law.

C. Certain Psychology courses such as General Psychology, Social Psychology, Personal and Industrial Psychology, Abnormal and Criminal Psychology.

D. Certain Sociology courses such as Principles of Sociology, Social Problems, Race and Ethnic Relations, Criminology, Sociological Research, and various Courses aimed at the improvement of the individual when dealing with the general public.

The Educational Bonus Plan will apply as follows:

Firefighter	2.5% base rate of pay
Fire Equipment Operator	2.5% base rate of pay
Medical Officer	2.5% base rate of pay
Lieutenant	2.5% base rate of pay
Captain	2.5% base rate of pay

To apply for this Educational Benefit the employee must submit to the Fire Chief a stamped transcript of his/her college or university credits for consideration. The final determination shall be made by the City Manager's Office.

Employees hired on or after July 1, 2014 shall not be covered by the terms of this article until they have completed twelve (12) months of continuous service as a City of Dubuque Firefighter.

CRITERIA APPLIED IN MAKING AWARDS

The Iowa Public Employment Relations Act contains criteria that are to be used by an arbitrator in judging the reasonableness of the parties' collective bargaining proposals. The Act establishes the criteria that are to be used by interest arbitrators in formulating their awards. Section 22.9 of the Act provides, in relevant part:

The panel of arbitrators shall consider, in addition to any other relevant factors, the following factors:

- a. Past collective bargaining contracts between the parties, including the bargaining that led up to such contracts.
- b. Comparison of wages, hours, and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.
- c. The interests and welfare of the public, the ability of the public employer to finance economic adjustments, and the effects of such adjustments on the normal standard of service.
- d. The power of the public employer to levy taxes and appropriate funds for the conduct of its operations.

With the criteria mandated for arbitrators firmly in mind and based upon the entire record developed at the hearing, the award contained in this report is formulated.

Background

Dubuque is located in the northeastern part of the state, and it is an urban area that is contingent to the Mississippi River. The Employer serves a population base of 57,546, and the call volume is approximately 5,500. The parties have engaged in collective bargaining for a lengthy period of time (since 1975), and the Association bargains for 81 professionals. The bargaining relationship has been acrimonious at times, and the impasse procedures have been utilized. The current contract is for the year beginning July 1, 2014, and ending June 30, 2015. The parties have been unable to resolve the preceding issues. The Employer and Association have spent considerable time in bargaining and negotiations, including the intervention of a mediator to voluntarily resolve the issues. This effort was unsuccessful and the impasse proceeded to arbitration on June 11, 2014. The education pay issue reflects an economic issue as the salary package for the Association is currently \$82,233.84 for the paramedics and \$30,795.96 for firefighters which totals \$112,929.80, or an increase of \$12,829.80 over the cost associated with the employer's contract. The Employer anticipates that the costs are even greater than the Association's projection – an annual increase of \$34,574.

The Association and Employer presented evidence, and each asserted their respective positions. The impasse appears to have generated intense feelings for both groups. The subscribed arbitrator has reviewed and considered at length the arguments, records, and evidence presented, and has carefully considered each point raised by the Employer and Association.

This dispute centers around one issue – education, but the core point is

the impact upon the monetary framework of the Employer. As part of the arbitration, the economic issue was paramount, and it has created some acrimony. Note, however, the Employer did not assert an inability to pay argument. The underlying issue was equally important – equality among internal employee groups particularly police and firefighters. During the hearing, each party was given ample time to present evidence and testimony regarding their respective position. At the end of the session each party elected to forego closing statement. Note, the parties agree on the Wage Plan, Article 12 – an increase of 1.5% for the following positions:

- Firefighter
- FEO
- Medical Officer
- Fire Lieutenant
- Fire Captain

Given the history of negotiations, the parties have experience with comparability. The Association and the Employer used slightly different comparability grouping, although each noted internal comparability between other employee groups, particularly police. The Association presented a historical comparability grouping that was extensive, including cities that are the seven largest in Iowa. The cities included are: Des Moines, Cedar Rapids, Davenport, Sioux City, Waterloo, Council Bluffs, and Dubuque. The cities range in size from 54,000 to 193,000. The Employer presented a different grouping – comparability internally between police and firefighters as well as other city employees.

Each party argues that its grouping was most appropriate and reasonable. Among the strategic factors for a neutral to consider in making an award is the comparability

group. The weight given by the Arbitrator is a function of several factors, which include but are not limited to: geographical proximity, size of population, demographic characteristics, and other relevant financial data. Therefore, it is not necessary to adopt in its entirety either party's group as most appropriate. However, appropriate weight has been given to each grouping. Before noting the comparability group, it should be clear that the parties spent considerable time detailing the reasons for using its comparability group. This was not lost on the Arbitrator. While each used party focused on variations in the comp groupings, it is clear that the core difference is internal comparability versus external comparability. When comparing internal to internal and external to external, the comps are almost identical. Thus the Arbitrator will consider the internal comp groups, although he will give weight to the historical and geographical groupings. With respect to the internal comparison, it is also clear that other arbitrators have reviewed this phenomenon, and while the instant arbitrator has not usually used internal comparability (given the difference in work activities), it is relevant in this arbitration.

Another strategic factor to consider is bargaining history. The parties detailed the history and each focused upon the bargaining during the course of negotiations that led to the instant arbitration. The Employer argued that the bargaining history indicates that firefighters have used the arbitration process to seek disparate raises as contrasted with other bargaining units. The Employer argues police and firefighters are the only groups that receive some form of education pay, and while the amounts are different, it is a negligible difference. Moreover, the Employer notes that additional compensation for attaining a college degree is not a common practice, and it is unclear how this degree/course work will benefit the Employer. Finally, the Employer notes that

other city employees (Housing Inspector, Public Safety Dispatcher, Police Officer, Water Distribution Maintenance worker, and Park Maintenance worker) are required to obtain training and associated affiliations to be certified under state law and that these employees do not receive education pay. Given this set of circumstances, the Employer argues that changing the Education Pay section creates a greater disparity among all employee groups.

The Association argues that the bargaining history indicates that the contract language regarding education has not changed since its inception since 2000, and that the stipend for EMT's has been unchanged since 1986. Moreover, the Association notes the specific costs associated with being a paramedic – certification costs are approximately \$10,000 for each candidate, and the inference is that the wage settlements including education pay/stipends does not adequately cover this. The Association also notes that the external comparability demonstrates that Dubuque firefighters are paid below the average of the six other cities and that the wage settlements for this year vary from a low of 1.5% (Dubuque and Davenport) to a high of 2.9% (Waterloo). Finally, the Association argues that the disparity is heightened by the Education pay/stipend Dubuque firefighters and paramedics receive.

The other clear issue in this case is ability to pay. While the Employer does not argue an inability to pay; it argues that Dubuque cannot be compared to Des Moines or Cedar Rapids, which are much larger cities with greater resources. Moreover, the Employer notes that internal comparability would lead to similar raises for other employees in the City of Dubuque – in essence the arbitration process would be used to create a pattern for the other workers. The Association argues that there are funds

available, although it also indicated that there is a significant disagreement in how the funds are allocated. Both parties identified strategic points, but in the end the Arbitrator found this is not an inability to pay issue. The Association presented considerable financial data which demonstrated that the Employer has ability to pay either proposal. The Employer did not directly refute this information; rather the Employer relied upon the comparability both internally and externally and that the Employer can afford the increase.

In analyzing the issues, the Arbitrator will initially focus on the education issue. Before addressing the issue per se, it is crucial to note that the Employer did not argue that this is an inability to pay case. The Employer contends there is a need to continue the approach offered for firefighters, EMT's, police, and other employees. The Employer notes that there is internal comparability, and that any modification of the contract by an arbitrator is unwarranted. Further, the Employer argues that arbitrators should not make language changes because these type of changes should be voluntarily negotiated by the disputing parties. In addition, the Employer also notes that there is a long-standing practice in these negotiations – the Employer has negotiated similar raises for all employees, and a decision by the arbitrator to give the firefighter a larger amount would upset a pattern of twenty-five years. Finally, the Employer contends that this item was not readily negotiated by the Association – a proposal was made without any give and take in the bargaining process..

The Association argues a two-pronged approach – the Employer has not shown an inability to pay, and the comparison with internal and external groups indicate that the firefighters deserve an increase in education pay. With respect to the comparability

groups, the Employer and Association use similar groups. The Association argues that the internal comps demonstrate that police patrol officers receive an education pay benefit of \$2,795 per year, and that there has always been a comparable benefit for firefighters. The Association argues that the education pay needs to be raised to meet the level the patrol officers receive. Additionally, the Association asserts that comparability has not been achieved with respect to the other cities – firefighters in Dubuque on various levels receive less than other similar firefighters in the comparable groupings – on average as well as on specific levels from starting pay to longevity pay. Finally, the Association contends that the payment approach needs to be changed – from a flat dollar amount to a percentage.

AWARD

The Arbitrator was not moved by the Association's arguments -- cost, internal comparability, bargaining history or external comparability. The Arbitrator is reluctant to change the education pay/longevity based upon internal comparability, especially given the fact that police and firefighters are eligible to receive pay of \$2,520 compared to the police of \$2,795. While the Arbitrator agrees this is not the exact same approach to education pay, the similarity in payment is obvious. In addition, other employees of the City of Dubuque do not receive Education pay. When comparing the fire fighters with other internal groups, the police receive \$235 more, and the fire fighters receive more than other employees in the City. Given this dynamics, the arbitrator is reluctant to change the language given the small difference. The Arbitrator is fully aware of the Employer's ability to pay, and the real issue is whether the Arbitrator should change the

contract language.

While changing the contract language seems insignificant, other arbitrators have recognized that it is a best practice for the parties to make such changes, not arbitrators. Other arbitrators have not chosen to change the language for a variety of reasons that encompass the following frames:

1. Contract language usually includes “quid pro quos” that are not always apparent;
2. Language changes should be voluntary because decisions by third party neutrals may alter the existing bargaining relationship.

The bargaining history is clear and compelling on education pay, and the Association does not offer arguments that compel the Arbitrator to alter what has been negotiated. The difference in the amount of education pay (between fire fighters and other locals) is not significant, and it means fire fighters and police are relatively equal. In addition, the Arbitrator notes that the Employer has promoted a method of bargaining that is consistent for other labor organizations within the employer organization. If the Arbitrator changes the language and hence the payment, other labor groups could reasonably expect these changes as well. Finally, the Association asks that the language would be changed such that fire fighters would receive payment for education above and beyond what has been done in the past – for education that is directly and indirectly related to fire fighting. Regardless the arbitrator is reluctant to mandate a change that alters the educational process – not only in terms of the course content that is applicable but the a movement from a flat fee to a percentage approach.

The Arbitrator also does not find that external comparability is sufficient to mandate a change given the internal comparability. While there is some evidence that the external comps indicate that the fire fighters from the Dubuque do not do as well as

those in the larger cities, the remaining cities in the comp group are mixed -- those in Dubuque do better than some firefighters in other cities while others do worse.

AWARD
(Summary)

Article 12: Wage Plan

1.5% Wage Increase for Firefighters, FEO, Medical Officer, Fire Lieutenant, and Fire Captain (across the board).

Article 14

Education Pay – status quo – no change in language.

Dated and signed by:

Micheal L. Thompson, Arbitrator

7/2/14



Certificate of Service

I certify that on the 2nd day of July, 2014 I served the foregoing Arbitration Award upon each of the parties to this matter by mailing a copy to them at their respective addresses as shown below:

Randy Peck, Personnel Manager
City of Dubuque
50 West 13th Street
Dubuque, Iowa 52001

Stephen Juergens, Attorney
200 Security Building
50 West 8th Street
Dubuque, Iowa 52001

I further certify that on the 2nd day of July, 2014, I will submit this report for filing by mailing it to the Iowa Public Employment Relations Board, 510 East 12th Locust, Suite 1B, Des Moines, Iowa 50319.

