
In the matter of Compulsory Interest Arbitration
concerning the negotiations impasse between

DECISION AND AWARD

County of Morris, Office of the Sheriff

of

and

Frank A. Mason, Arbitrator

Morris County Policemen's Benevolent Association
Local 298

PERC Docket No. IA-2012-35

APPEARANCES

For the County: Fredric M. Knapp, Esq., Knapp Trimboli & Prusinowski

Stephen Trimboli, Esq., Special Counsel

Edward Rochford, Sheriff

Frank Corrente, Chief of Corrections

Allison Stapleton, Manager, Labor Relations

Staci Santucci, Chief of Staff, Sheriffs Office

For the PBA: Donald B. Ross, Jr., Esq., Lindabury McCormick Estabrook &
Cooper.

Leon Pollison, President, PBA Local 298

Shawn Johnston, Financial Secretary, PBA 298

Rodney Furby, State Delegate

Gregory Chetsos & George Merrill, Negotiating Team

This case assignment was made by the N. J. Public Employment Relations Commission pursuant to the legislative conditions imposed by the N. J. State Legislature which are instructive to the parties and to the Arbitrator appointed. The parties first met on May 17, 2012 and again on June 4th at which time there was discussion as to the submission of post hearing briefs, which were received on June 17 and 18. At that time the record of hearing was deemed to have been closed.

The prior Agreement of the parties was for the period from January 1, 2007 through December 31, 2010. We are, therefore seeking to establish a new Agreement which would be retroactively effective from January 1, 2011. The position of the Employer is that such Agreement would continue until December 31, 2013. The proposal of the PBA was for a contract expiration date of December 31, 2014. The PBA proposed salary increases of 2.5% effective across the board at all steps of the salary guide retroactive to January 1, 2011 and the payment of all step increases as was required in the expired contract. The same increases were demanded for each of the remaining three years of the contract period ending December 31, 2014.

The Employer's proposal for wages was for no step increases for the duration of the Agreement and further that an agreement would be reached as to the condition such would not be reconsidered until negotiations for a successor Agreement to be effective on January 1, 2014 would have been negotiated. In addition there would be no base pay increase for 2011; a 2% increase effective as of January 1, 2012 for all officers and a further increase of 2% on January 1, 2013.

In addition the Employer proposed the following. Retiree Health Insurance: Employees hired after the date the Award is issued, who retire and meet the criteria for County-paid health insurance, will receive a plan for the employee only. Such qualified employees will have the option to add their eligible dependents to the plan at the expense of the retiree.

Medical Plan: All employees currently enrolled in the Medallion Plan shall have the option to transfer to the PPO plan and all employees enrolled in the Wraparound Plan shall transfer to the PPO plan. The Wraparound Plan shall no longer be available for enrollment.

Payroll Contributions-Current Employees a. Employees enrolled in the HMO Option plan shall contribute in accordance with Chapter 78; b. Employees enrolled in the Medallion Plan shall contribute the greater of 30% of the difference between the cost of the Medallion Plan and the PPO Plan, plus 1.5 % of base salary, plus 3% of the premium or in accordance with Chapter 78. c. Employees enrolled in the PPO Plan shall contribute the greater of 1.5% of base salary or in accordance with Chapter 78.

The Prescription Drug Plan Co-Pays applicable to all active employees and employees who retire after the date the Award is issued shall pay \$1.00 for Generic; \$20 for Brand Name and \$35 for non Preferred prescriptions.

The demands of the PBA.

1. Health Insurance. Effective as soon as practicable after execution of this new Agreement, all officers who are currently enrolled in either the so-called "Medallion Plan" or the so-called "Wraparound Plan" shall be required to enroll in the County's "PPO" plan currently provided to certain other county employees. Other officers who are currently enrolled in the "HMO" plan shall be permitted to change to the PPO plan, provided that these officers shall pay thirty (30) percent of the difference between the HMO premium and the PPO premium.

2. If an officer is working on a holiday and required to work mandatory overtime on that day, the officer shall be paid double time and a half for working the extra shift or portion thereof.

The County insists that its proposals should be granted and that those of the Union be rejected. In part this is predicated upon the fiscal conditions which have become key to the financial future of the County. The administration has taken many steps to eliminate excess or non-essential spending and to preclude the further pressure as to increasing need for raising taxes. In an effort to demonstrate that this policy was not directed exclusively at these negotiations the County presented a great deal of information showing how the same constraints were exercised in negotiations involving many employing units of the County. In fact the singular argument substantiating the several important dimensions of these negotiations which was constantly brought into focus was the asserted pattern of settlements principally focused on economic matters. In those negotiations there was particular success in the contracts including no wage increase and no step movement for the 2011 year followed by a continuation of the no increment posture for 2012 and 2013 but with 2% across the board pay increases effective as of January 1, 2012 and January 1, 2013

This thesis, described as a pattern sufficiently universally achieved and recognized, should preclude the granting of any greater awards in proceedings which involved this employer and other units of its organized employees. There was also offered and pressed, the argument that general acceptance of such patterns is virtually mandated in the field of labor relations, in order that there be no disruption of the Employer's relationship with those employees and the representatives of same. In effect, the Employer's negotiator was avowing that I had no alternative course of action but to confirm the varied terms of other agreements made with its other employees and to award same. In general I support that thesis but am guided by its premises and a question of relevance to the issue at bar.

In the situation before me proposed I find that some elements of exception are worthy of consideration. though I do not disagree with most of the conclusions reached by the County and its varied units of employees. For instance I find there to be compelling reason to limit this Agreement to the three year period. Key to this conclusion is the combination of consideration as to the intent of the Legislature to provide a specific period during which fiscal limitations are placed on the parties. To extend the contract

period purposely to avoid those sanctions would require an over-riding and compelling rationale which I do not find to exist here. Instead I find that the approval of an extended Agreement would be inconsistent with the normal term of contracts between this Employer and its employees and serve only to avoid the Legislature's directives. Therefore I shall limit the contract period to three years.

I also find the limits concerning rates of pay increases having generally being accepted by this Employer's units to have a meaningful impact as to any decision I might otherwise make. But there is a consideration I believe must be added at this point. During the earlier stages of these negotiations the County had made a proposal concerning the elimination of some of the health care options available to these employees. It had been demonstrated that certain of the options were very substantially more expensive than plans which had been accepted by most of its employees. It had introduced a demand which would curtail those options and confine the choices to two State sponsored plans. During the succeeding period that reduction was proposed to other of the County's negotiating units. This was at the time when the PBA after considering this matter made a decision to alter its position concerning the health benefits costs problem.

In a meeting during this interest arbitration proceeding the PBA proposed to eliminate the employee option to select the Medallion or the Wraparound plans which have been selected by 27 of its members in order to generate savings to the County and which could be diverted to base salary demands which had been rejected. The amount of savings which could have been realized was approximately \$200,000 per year.

In the meantime the County had completed other unit negotiations where there had been resistance to that change and where the County modified its position to allow the continuation of those plans with some modifications. When confronted by Local 298's suggested abandonment of those plans the County refused. The explanation was that there would be some savings but that it would not have relieved the burden of maintaining those plans as suggested by the PBA. It would appear to me that the original plan to rid the County of the excessively expensive plans should have been given support by adoption of the PBA's proposal as such would also pave the way for total abandonment of the high cost plans in the future; thus paving the way for greater economic improvements. To carry the more expensive plan when a substantial portion of its subscribers was willing to give it up made no sense. Even, if as the PBA suggested, the savings be applied to salary, the long term values would exceed any intermediate concession of that sort, especially as the costs of the medical plan were almost certainly going to rise faster than any increment payment added to wages within the salary ranges, which condition would have been part of the concession, and which would not have influenced the top pay in the salary range anyway. Thus the long term savings would be considerable and would extend well beyond the period when the added cost of increments would expire as employees reached the maximum pay in the salary range.

A further element of this thinking has to do with the claim of the PBA wherein they indicated the prior Agreement made provision for increments to be paid beyond the

expiration date of the Agreement unless there would be a formal notification from the County as to a demand for discontinuing that plan. It is claimed that such a notification was never timely served on the Union and thus the increments should have been paid in 2011. Instead, the County is said to have simply let it be known that there would be no increments paid to all County employees, paying no attention to its contractual obligation to the PBA. Thus I find the increment monies which would have been paid in the year 2011 should be paid from the savings realized in exchange for the of award of the proposal of the PBA to eliminate the options for continued enrollment in the Medallion and Wraparound plans. It is noteworthy that the Medallion and Wraparound health benefit plans were admitted to having become a thing of the past except for Morris County, particularly as the County resisted the overture of the PBA to eliminate them in this proceeding and especially so since there was a significant monetary advantage to be realized by accepting the PBA's overture.

As to the proposal of the County concerning the 2012 and 2013 years I find the argument concerning the established pattern concept to be of such significant force as to mandate an award of the County proposed 2% without increments package, claimed to have been set as the pattern for all of the County bargaining units.

The PBA also advanced a proposal for payment of double time and a half for working on a holiday for hours mandated beyond the ordinary shift assignment. I find no evidence of such arrangements having been universally adopted elsewhere and, given the nature of the work scheduling in the prison system it would appear to be an event which is as much a part of the territory as is the seven day twenty four hour required coverage. Thus I reject this demand. The current economic climate certainly does not suggest finding new means of expanding the payments of overtime income.

It is my judgment that the interests of the public should be the most significant of the considerations required by the arbitrator. Certainly the limits imposed by the actions of the County would confirm my not having a great deal of flexibility in the making of this award. Presumptively the actions and decisions imposed by the County would have been in the interest of the public and I will have made only minor adjustments to effect changes, some significant portion of which I see as furthering the public interests to a greater extent than suggested by the County. However, the circumstances, such as the limitations imposed by the Legislature and the success of the County in establishing a comprehensive pattern of settlement terms combined to severely restrict the exercise of contrary judgment. In addition the parties had negotiated extensively and there remained relatively few issues presented for the arbitrator's consideration. The costs of the implementation of the award are clearly not violative of the Legislature's limitations and do not warrant any expansive justification here.

There were three stipulations of the parties which were intended to be included in this award.

1. Pages 52-56 of exhibit 60, submitted into evidence as Joint Exhibit 1. is accepted as the testimony of RHM insurance consultant Thomas Giordano.
2. Article VIII, Section 4 shall be amended to reduce the stated six weeks to three weeks.
3. The parties reached a compensatory time side bar agreement to the main body of the contract.

These three changes/modifications are to be considered a part of the overall award in this decision.

Under the circumstance noted above, concerning the preemption of elements of an award inconsistent with the established pattern I repeat my conclusion that I should not indulge in an extensive replication as to considerations ordinarily undertaken to explain consideration of the statutory criteria. It would serve no purpose for me to attempt to satisfactorily explain the award of terms of employment already determined by the Employer in other negotiations, with the possible exception of modifications which I imposed which were fully explained above and which I do not believe violate the tenor of those mandates.

OPINION AND AWARD

As is more fully set forth above, the following elements of this award include a three year contract duration effective from January 1, 2011 through December 31, 2013. The salary plan to include increment payments in the first year only and wage increases of 2% in each of the final two years effective on January 1, 2012 with retroactive payment and on January 1, 2013 respectively. The health benefits plan proposed by the PBA shall be implemented at the earliest time practicable: contributions by Employees shall be in accord with Chapter 78. The prescription drug plan shall be as described in the County's proposal. The proposal of the County as to Retiree Health Insurance conditions is also awarded.

Any and all other proposals not specifically provided for in this decision and award are to be considered as having been rejected.



Frank A. Mason
Arbitrator

Pennington, Mercer County, New Jersey

On this 18th day of June, 2012 before me personally came and appeared Frank A. Mason, to me known and known to be the individual described in and who, in my presence, executed the foregoing opinion and award and he acknowledged to me that he executed the same.

John F Bullock Jr

Notary Public

New Jersey

My Commission Expires 12-30-16

