

**MINNESOTA BUREAU OF MEDIATION SERVICES**

**ARBITRATION AWARD**

---

In the Matter of the Arbitration )  
 )  
Between )  
 )  
AFSCME COUNCIL #5 ) File 10-PN-1622  
 )  
and ) JOHN REMINGTON  
 ) ARBITRATOR  
COUNTY OF ST. LOUIS, MINNESOTA )  
CORRECTIONS/ 911 UNIT )  
 )  
 )  

---

**THE PROCEEDINGS**

The above captioned parties, having been unable to resolve an impasse arising out of the inability to agree upon the terms and conditions of a new collective bargaining agreement, selected the undersigned Arbitrator John Remington, pursuant to Section 179A.16 of the Public Employment Relations Act and through the procedures of the Minnesota Bureau of Mediation Services, to hear and decide the matter in a final and binding determination.

Accordingly, a hearing was held on April 7, 2011 in Duluth, Minnesota, at which time both parties were represented and fully heard. The parties presented oral testimony and

documentary evidence. No stenographic transcript of the proceedings was taken and the parties requested the opportunity to file post hearing briefs which they did subsequently file on May 6, 2011.

The following appearances were entered:

FOR THE EMPLOYER:

Steven C. Fecker

Attorney at Law  
Duluth, MN

FOR THE UNION:

Robert L. Buckingham

Field Representative

### **THE ISSUES**

At the time the parties reached an impasse in collective bargaining, they identified the following three (3) issues to the Minnesota Bureau of Mediation Services for resolution through interest arbitration: (1) Overtime Article 6, Section 5 (language); (2) Union Meetings Article 27, Section 1 (language); and (3) Health Insurance MOA-Exhibit C (Premium Contribution). Prior to the hearing the parties resolved and withdrew from arbitration issue (2) relating to Union Meetings. Accordingly, issues (1) and (3) above were presented to the Arbitrator for final and binding resolution.

### **BACKGROUND**

St. Louis County, Minnesota (hereinafter the “EMPLOYER” or “COUNTY”) is geographically the largest county in the State encompassing over 6800 square miles with a population of over 200,000. The County is a public employer within the meaning of Minnesota Statutes §179A. The American Federation of State, County and Municipal Employees

(AFSCME) and its Council #5 (hereinafter the “UNION”) is the duly certified exclusive collective bargaining representative for County Jail Corrections Officers (AFSCME Local 1934) and Communications Department Essential Employees (AFSCME Local 66), aka 911 Unit. This latter unit is composed of Corrections Officers and Corrections Sergeants working at the St. Louis County Jails in Duluth, Hibbing and Virginia and Dispatchers working in Duluth and Virginia. The parties were unable to fully agree on the terms of a new collective bargaining agreement during negotiations in 2010 and submitted the outstanding issues to the Bureau of Mediation Services for interest arbitration. These positions are properly before the Arbitrator for final and binding determination.

### **DISCUSSION, OPINION AND AWARD**

#### **ISSUE #1: Computation of Employee Overtime During the Workweek (Article 6, Section 5)**

The Employer seeks to amend the method of computing overtime during the workweek by excluding sick leave and compensatory time off from the definition of hours worked. The result of this amendment would determine overtime eligibility by counting the actual hours worked together with any vacation leave, personal leave and contractual holidays included in the workweek. The Union opposes this change as a safety issue arguing that employees work an around the clock schedule (24/7) and are frequently forced to work overtime because of the unavailability of relief employees and the need to maintain coverage. In this connection the Union contends that the Jail/911 employees work substantially more overtime than do other units and that the employees would be unduly penalized by the adoption of the overtime language proposed by the Employer.

The Employer's argument on this issue relies primarily on internal comparisons. It points out that all other units, including those represented by Council #5, have agreed to new language for the 2010-11 period that drops sick leave and compensatory time from the calculation of hours worked for purposes of overtime eligibility. It cannot be denied that such internal comparisons are important for both labor relations stability and contract administration. This is particularly true in this instance since Corrections/911 unit members work side by side with Civil Service Basic Unit members also represented by Council #5.

The Arbitrator is fully cognizant of the financial limitations of the Employer and the comparatively high overtime costs in the Corrections/911 unit which exacerbate this problem. Further, he is persuaded by the strong internal comparison rationale advanced by the Employer. Accordingly, he is compelled to find that the change proposed by the Employer is both reasonable and necessary.

#### **AWARD**

Article 6, Section 5 shall be amended to read: For the purpose of computing employee overtime during the work week, vacation leave, personal leave, and holidays shall be counted as hours worked. Sick leave and compensatory time off shall not be counted as hours worked.

However, employees shall still be paid at straight time for their absences due to sickness and they will still receive one and one-half hours of compensatory time at straight time for each hour of overtime they have worked (assuming that they choose compensatory time off rather than cash overtime.)

**ISSUE #3: Health Insurance- Self-Insured Medical Plan Funding (MOA-Exhibit C)**

Exhibit C of the Memorandum of Understanding currently incorporated into the collective agreement provides that:

During each Plan year that St. Louis County is self-insured for medical coverage, and establishes a funding level for the following Plan year, the Union agrees that covered Plan subscribers will be responsible for funding the first twenty (20) percent of the County Board-approved increase plus an additional amount representing the subscribers contribution for elected coverage- using the applicable 20/80 or 30/70 family premium split model.

Each Plan subscriber's monthly contribution toward the increased premium, commencing as of January 1 of the new Plan year, shall be computed as follows: the projected total active employee revenue increase for the Plan year times twenty (20) percent, divided by the number of active employee contracts as of December of the preceding year, divided by twelve (12).....

The Union proposes to add the following language:

Notwithstanding the formula in the preceding sentence, effective April 2010, the monthly plan subscriber payment shall be \$37.72 for the remainder of 2010 and for 2011, and thereafter until a new amount is negotiated. The Employer shall not be responsible for paying the balance of the monthly payment calculated pursuant to the formula.

The Union maintains that the intent of the above language which was first adopted through collective bargaining in 2008-09 is to ensure that the Health Insurance Plans are fully funded.

The Employer does not dispute this intent.

The Employer contends that the Union's proposal will reduce the employee contribution to health insurance without making other economic concessions agreed to by other bargaining units. It argues that freezing the employee contribution at 2009 levels is untenable since the Union does not propose to lift the restrictions that limit the County Board's discretion in setting the premium.

The Arbitrator is inclined to favor the position advanced by the Union based on internal comparability and consistency considerations. While the Employer objects based primarily on the Union's rejection of the proposed change in the overtime calculation language discussed above, the Arbitrator must find that this objection is satisfied by his Award on that issue, supra. Further, the testimony at the hearing revealed that the Self-Insured Medical Plan Funding remains at a healthy balance. Accordingly, it is no longer necessary for employees to pay the 20 percent of any increased premium amount for 2010 and 2011. In addition, no unanticipated cost to the Employer can result since the Employer cannot be responsible for paying the balance of the monthly payment calculated pursuant to the formula under the language proposed by the Union. Future cost increases can be resolved through collective bargaining as they will need to be addressed in other bargaining units that share the same Memorandum of Understanding on the Self-Insured Medical Plan Funding. The Arbitrator is reluctant to impose a settlement that is unlikely to have resulted from collective bargaining. It is apparent that once the overtime calculation issue was resolved, the instant issue of Medical Plan Funding was most likely to have been resolved according to the pattern established in the other bargaining units. The Arbitrator must therefore find that the proposal advanced by the Union must be awarded.

#### **AWARD**

Notwithstanding the formula established in Exhibit C of the MOA in the current agreement, effective April 1, 2010, the monthly plan subscriber payment shall be \$37.72 for the remainder of 2010 and for 2011, and thereafter until a new amount is negotiated. The Employer shall not be responsible for paying the balance of the monthly payment calculated pursuant to the formula.

The Arbitrator has made a detailed review and analysis of the testimony and documentary evidence offered by the parties in support of their respective positions, and he has carefully read and considered the arguments advanced by the parties in their post-hearing briefs. Having

considered the above review and analysis, together with the findings and observations hereinabove made, the Arbitrator has determined, and so he finds and concludes, that the above findings, observations and awards are sufficient to resolve the impasse between the parties. Further, he has determined that certain other matters which arose in these proceedings must be deemed immaterial, irrelevant, or side issues at the very most, and therefore have not been afforded any significant mention, if at all, for example: whether or not the current fund balance in the Self-Insured Medical Plan accurately reflects the true condition of the plan; whether or not the cost of the plan will increase in future years; whether or not most of the overtime worked by Jail/911 employees is unplanned; whether or not emergency call-outs apply to daily operations; and so forth.

---

John Remington,  
Arbitrator

May 20, 2011

Inver Grove Heights, MN