

NEW JERSEY PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Arbitration Between:

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BOROUGH OF RAMSEY,	X	
	X	
Public Employer,	X	
	X	
-and-	X	
	X	SUPPLEMENTAL
	X	DECISION AND AWARD,
	X	ON REMAND
RAMSEY PBA LOCAL NO. 155,	X	
	X	
Labor Organization.	X	
	X	
PERC Docket No. IA-2012-015.	X	
<hr/>	X	

PROCEDURAL HISTORY

The Borough of Ramsey (the "Borough" or "Ramsey") is a public employer as defined by the New Jersey Public Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (the "Act"). The Ramsey Policeman's Benevolent Association, Local 155 ("Local 155" or the "PBA"), is the exclusive representative for Ramsey police officers below the rank of Captain. A prior Collective Bargaining Agreement (the "Agreement" or "CBA") between these parties covered the years from January 1, 2007 through December 31, 2011, (Joint Exhibit 1.)

Following stalled negotiations for a successor agreement, Local 155 filed a Petition to Initiate Compulsory Interest Arbitration (the "Petition") with the New Jersey Public Employment Relations Commission (the "Commission", or "PERC"). In keeping with its rules and procedures, the undersigned was designated as Interest Arbitrator. I held a hearing, accepted post-hearing submissions, and carefully consider the parties' proofs and positions.

On April 17, 2012, pursuant to P.L. 2010, c. 105 effective January 1, 2011, I timely issued a 76-page Decision and Award (the “April Decision”.) This determination was reached by applying the legislative criteria governing interest arbitrations in New Jersey. *Inter alia*, I granted step and longevity increases over three years using a “hard cap” of \$188,775. The cap, in turn, was premised on my finding that the Borough, in 2011, paid \$3,146,293 in Base Salary to bargaining unit members.

Local 155, on or about April 25, 2012, filed a Notice of Appeal with the Commission. The essence of its appeal was that the Borough’s base salary figure—which I adopted in connection with the economic award—was erroneous. (Brief on Behalf of PBA, page 1.) While it broadly challenged the appeal, Ramsey acknowledged that its original scattergrams improperly accounted for mid-step movements by two recently hired officers. (Brief in Opposition to Appeal, page 7.)

On May 24, 2012 the Commission issued its decision and order in Borough of Ramsey, P.E.R.C. No. 2012-60. It rejected the appeal, except for directing a “revised analysis for the Borough’s 2011 expenditure for base salary which reflects accurate figures for the salary/step movement for the officer hired on February 12, 2010 and the officer hired on August 15, 2011.” (Commission’s Decision, page 11.) (Emphasis added.)

First Supplemental Determination on Remand

The 2011 Base Salary is Re-computed to be \$3,118,154

Base Salary, in the April Decision, was calculated to be \$3,146,293. This amount was reached, in part, from examining the Borough’s scattergrams, which showed all step increases as accruing on January 1st of each contract year. On appeal, Local 155 challenged the Borough’s calculation.

The Union’s Challenge to Base Salary – The nub of the Union’s appellate argument was that the “appropriate method of calculating base salary for 2011 is by using the officer’s

anniversary dates when calculating step movement.” (Brief on Behalf of PBA, page 11.)

Applying this method Local 155 argued that Base Salary, without longevity, would be \$2,917,721; with longevity it would total \$3,089,127.

The Borough’s Challenge to this Argument – In rebuttal, the Borough of Ramsey

addressed the previously noted error in its scattergram by replying:

The PBA asserts the step increments are provided on the Officers’ anniversary date. While this is true for the first anniversary date, at which time an officer progresses from Patrolman 1st to Patrolman 2nd, all successive increment movement occurs on January 1. See Vozeh Certification at ¶ 6.

(Brief in Opposition to Appeal, page 4.) Using this computational approach, the 2011 base salary for Patrolman Arai (Officer “A”) (hired on Feb. 12, 2010) reduces to \$50,852, and the base salary for Patrolman Banta (Officer “B”) (hired on Aug. 15, 2011) reduces to \$12,260. The combined *reduction* totals \$28,139, and thereby lowers overall 2011 Base Salary for Ramsey’s Officers to \$3,118,154 (i.e., \$3,146,293 - \$28,139 = \$3,118,154).

The Commission’s Remand Order

The Commission affirmed the Borough’s suggested modification. PERC found,

Using precise figures for the two officers whose salaries/ step movement were not accurately reflected on the scattergram submitted to the arbitrator is necessary to establish the baseline for the Borough’s total base salary expenditures for 2011, as required by N.J.S.A. 34:13a-16.7 (b). Therefore, the award must be remanded to the arbitrator on this issue so that he can make recalculations to accurately reflect the figures certified by the Borough and to assure that any change in wage increases awarded will not exceed the 2% base salary cap.

(Commission’s Decision, pages 8 & 9.) (Emphasis added.)

These recalculations, while staying within the 2% hard cap, are my sole charge.

The Arbitrator's Re-computation of Base Salary

Recalculation begins with verification that the Base Salary for 2011 is \$3,118,154. This revised amount follows from the Borough's acknowledgement that under the parties' CBA, step increments take effect on January 1st of each year, except for the first step increase. Initial increases occur on the first anniversary of hire, when an officer progresses from Patrolman 1 to Patrolman 2. All other step increases take effect each January 1st. In applying the exception, the Base Salary as originally calculated by the Borough, is lowered by \$28,139. See Computation *supra*. The corrected base, therefore, is \$3,118,154.

Second Supplemental Determination on Remand

The amount to be paid Officer "B" under the 2012 Salary Guide was overstated by \$10,076

PERC's direction to make recalculations, which "accurately reflect the figures certified by the Borough and to assure that any change in wage increases awarded will not exceed the 2% base salary cap," brought a related issue to light. It became evident that 2011 Base Salary--as recomputed by applying the foregoing exception to "A" and "B"--was not the only number in need of correction.

Examining 2012 salary projections for the bargaining unit, I found that the projection for Officer "B" was wide of the mark. "B," who was hired on August 15, 2011, will not advance to Step 2 until this coming August 15, 2012. Accordingly, for the first 226 days ending on August 15th, his compensation must be computed using the First Year salary of \$37,500. For the remaining 139 days of the year, compensation is to be computed using the Patrolman 2 rate of \$53,751 per annum. As recalculated "B" 's total pay in 2012 under the Salary Guide is \$43,675. This sum was arrived at, as follows:

$$\$35,300 \times 226/365 + \$53,751 \times 139/365 =$$

$$\$37,500 \times .62 + \$53,751 \times .38 =$$

$$\$23,250 + \$20,425 = \$43,675$$

The projected amount to be paid Officer "B" under the Salary Guide for 2012 was overstated when the Borough of Ramsey forecast he would be uniformly compensated throughout the year at the Patrolman 2nd rate of \$53,751. This projection overstated his Salary Guide compensation for 2012 by \$10,076, i.e., \$53,751 - \$43,675 = \$10,076

This change impacts application of the two-percent hard cap.

Third Supplemental Determination on Remand

The overstatement of Officer "B" 's 2012 Salary Guide compensation impacts the application of the "hard cap"

The April Decision, see page 72, reported the financial effect of maintaining the Salary Guide and Longevity provision for 3-years. It showed that paying for guide increments as written into the CBA would result in the following:

2012 Salary Increments would increase costs by \$83,893;
2013 Salary Increments would increase costs by \$50,734; &
2014 Salary Increments would increase costs by \$60,393

Therefore, total Step increases were reported to be \$195,020. Id. at 71 -72. Using this number, and the 2% hard cap as originally computed, it next was determined that simply freezing the guide would "exceed...the lawful maximum by \$6,245, i.e., \$195,020 - \$188,775 = \$6,245." Id. at 71 -72.

The overstatement--by \$10,076--of 2012 pay for Officer "B" changes this outcome by lowering the projected increase in guide cost for that year. The increase actually is \$73,817, i.e., \$83,893 - \$10,076 = \$73,817. As a result, funding guide increments as written into the CBA actually results in the following:

2012 Salary Increments would increase costs by \$73,817;
2013 Salary Increments would increase costs by \$50,734; &

2014 Salary Increments would increase costs by \$60,393

Therefore, at this point, total Step increases are demonstrated to be \$184,944.

Fourth Supplemental Determination on Remand

The adjusted "hard cap" for a three-year contract is \$187,089

The "hard cap" for a new three-year contract between the PBA and Ramsey is calculated by the following formula:

$$\text{Base Salary} \times 2\% \times 3 \text{ (years)}$$

Using the recomputed Base Salary, see First Supplement Determination on Remand *infra*, the adjusted hard cap is set, as follows:

$$\$3,118,154 \times 2\% \times 3 \text{ years} =$$

$$\$62,363 \times 3 \text{ years} = \$187,089$$

Prior to applying this cap, I note that longevity increases between 2012 & 2014 will total \$11,724, arrived at as follows:

$$\$4,732 \text{ (2012)} + \$2,258 \text{ (2013)} + \$4,733 \text{ (2014)} = \$11,724$$

Fifth Supplemental Determination on Remand

Maintaining the Salary Guide, and the Longevity provision unchanged through 2014 would result in the cap being exceeded by \$14,412

Continuing step and longevity payments in place through the end of 2014 would cost the Borough an additional \$201,668. This amount is reached, as follows:

Cost of Step	+	Cost of Longevity	-
Increments		Increments	
\$184,944	+	\$11,724	= \$201,668

Having previously determined that: A. An increase of 2% per annum for the Ramsey bargaining unit was within the law's bounds; and B. Continuing longevity and step increases as scheduled in the CBA was appropriate, the penultimate question becomes

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Statement for Dispute Settlement Services

July 9, 2012

Re: Borough of Ramsey –and- PBA, Local 155
Docket No. IA-2012-015

June 4, 2012 Review Historical File and Appellate Submissions	2-Hours @ 125 =	\$250.00
June 8, 2012 Continued Review	2-Hours @ 125 =	\$250.00
June 14, 2012 Research & Writing	3.5-Hours @ 125 =	\$437.50
June 20, 2012 Drafting Award	3-Hours @ 125 =	\$375.00
July 6, 2012 Drafting Award	2-Hours @ 125 =	\$250.00
July 8, 2012 Drafting Award	2-Hours @ 125 =	\$250.00
July 9, 2012 Complete Award	7-Hours @ 125 =	<u>\$875.00</u>

TOTAL Fee For Services

\$2,687.50

EMPLOYER'S ½ SHARE \$1,343.75

UNION'S ½ SHARE \$1,343.75

**Please Make Check Payable to
Westerkamp ADR Services, LLC**

Patent R. W. D.