

STATE OF KANSAS
PUBLIC EMPLOYEE RELATIONS BOARD

TOPEKA PRINTING PRESSMAN and
ASSISTANT UNION NO. 49 and
LOCAL 23-B (Bookbinders)
GRAPHIC ARTS INTERNATIONAL

vs.

DIVISION OF PRINTING, DEPARTMENT
OF ADMINISTRATION (75-CAE-7 and
8-1982).

Now on this 15th day of July, 1982, the above matters come on before the Board for hearing. Complainants appear by TERRY WATSON, their attorney. Respondent appears by DAN CARROLL, its attorney, and by BILL SMITH, Director of Printing.

The parties submit the complaints upon a written record made before JERRY POWELL, Hearing Examiner, on May 20, 1982, and proceed to argue the matters before the Board.

NOW, THEREFORE, on this 8th day of September, 1982, after reviewing the record and hearing the arguments, the Board makes the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

1. The Kansas Legislature abolished the elective office of State Printer, effective July 1, 1977, and established within the Department of Administration the Division of Printing under the supervision of the Director of Printing (K.S.A. 75-1001b). MR. BILL SMITH has been the Director since March of 1976.

2. It is the duty of the Division of Printing to do all of the public printing and binding required by the Legislature, the Supreme Court, the Governor or any State agency (K.S.A. 75-1017a).

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3. The compensation to be paid to the employees of the Division of Printing cannot be greater than that paid by other printing and binding offices employing the same class of labor (K.S.A. 75-1017).

4. MR. BILL SMITH has represented the Division of Printing in meet and confer sessions under PERA since he has been Director. Three employee organizations are certified in the division:

a. the pressmen and assistants, b. bookbinders and c. typographers. Each unit negotiates for itself. The typographers have always agreed first and whatever they were limited to was the maximum that the other units received. (T. 139). MR. SMITH testified and his theory was if there were any substantial differences between the treatment of all of the crafts (units), it would invite chaos (T.140).

5. From 1977 to 1981, both inclusive, the Division of Printing has not backed off from its last hourly rate proposal given during meet and confer sessions (T. 83-115).

6. The Division of Printing conducts an annual survey relative to compensation paid by other printing and binding companies in and around Topeka and the State Regents' System and did so in 1981. This 1981 survey was submitted to the unions in the meet and confer sessions. The unions did not contest the accuracy of this survey.

7. RON HAYS, ALBERT DeBACKER, DIANNA McWHIRT and GEORGE FAY were the negotiating team for Local 23-B. On February 4, 1981, the Division rejected a union proposal of \$9.34 per hour and offered \$8.72 as a final offer. ALFRED BESSER, SR., JUDY SHULTZ, JAMES DARK and RANDY CUMMINGS were the negotiating team for Local Union 49. The Division offered \$8.72 on February 6, 1981, as its last offer.

8. Both matters went to empasse, mediation and fact finding. The panel members relative to both matters were the following persons:

- (49) a. Donald R. Hoffman--Impartial member
- b. Daniel J. Carroll--Employer member
- c. Terry D. Watson ---Union member

- (23B) a. Donald R. Hoffman - Impartial member
b. Daniel J. Carroll - Employer member
c. Harry Helser ----- Union member

9. PROCEDURE (49). See Exhibits for detail.

- a. Hoffman Report issued September 16, 1981, and recommended \$9.10 per hour retroactive.
b. Local 49 acceptance of Hoffman Report - September 30, 1981.
c. Division's dissent - October 29, 1981. \$8.72 retroactive.
d. November 12, 1981. Division's final offer implemented.

10. PROCEDURE (23B). See Exhibits for detail.

- a. Hoffman Report issued December 9, 1981. Recommended \$9.10 per hour retroactive.
b. December 9, 1981 - Hoffman Report received by DeBacker (T.62); Union members upset - wanted money for Christmas (T.64-65); December 9, 1981, Smith received Hoffman's Report and discussed it with Carroll. Carroll informed Smith of his dissenting opinion. Smith had previously advised Fay and DeBacker to call Hoffman and push him for his report since the Fact-Finding Hearing had been held October 12, 1981; December 10, 1981, Smith implemented Division's last offer of \$8.72 per hour; Fay and DeBacker did not ask Smith to implement the \$8.72 rate but did inform him that the members were upset; December 15, 1981, Carroll issued dissenting report; December 23, 1981, Helser issued his concurring report to Hoffman's report; the hourly employees are paid twice a month--5th and 20th (T.147); it takes some time before the 5th and 20th for the Division of Accounts and Reports to do the paper work (T.147).

11. Historically, the impartial fact-finder has substantially arrived at a figure somewhere between the last Union proposal and the final Division proposal relative to hourly rate, and this occurred in 1981.

CONCLUSIONS

✓ 1. The Complaints filed relative to the years 1977 through 1980 should be dismissed by virtue of the six-month Statute of

Limitations.

2. Surveying the record in its entirety, the Board is of the opinion that the respondents were not guilty of prohibited acts as alleged. The factual situation as reflected by the record does not prove the commission of a prohibited act with the degree of certainty required. The record does not reflect a willful refusal to meet and confer. This situation is unusual in management-labor relationships in the K.S.A. 75-1017 is statutory control of the compensation to be paid to employees of the Division of Printing. This statute cannot be ignored by either the employer or employees. However, the Board would offer the following suggestions as a means of streamlining future bargaining sessions. The parties could establish ground rules that might include:

- a. Companies to be surveyed.
- b. Wages and benefits to be included in survey.
- c. Joint review of all materials returned from survey.

In management-labor relationships the words "surface bargaining" sometimes arise. "Surface bargaining" may be categorized as negotiations containing a lack of intent to reach an agreement. There is evidence in this record that the Division of Printing had conducted their annual compensation survey and consistently demonstrated inflexibility from the results dictated by the survey. In that area a posture of this type could easily be found to constitute bad faith. However, in its review of the entire record surrounding these charges the Board has noted certain circumstances which resulted in its finding of no bad faith. They are as follows:


- a. Although the parties had participated in the meet and confer process for a lengthy period of time, encompassing several years, there is no evidence that the problem had ever been identified or discussed prior to the filing of these charges.
- b. K.S.A. 75-1017 might lead a reasonable person to conclude that flexibility to reach an agreement beyond the parameters of the compensation survey was non-existent. This places the Division of Printing in an unusual situation.
- c. While a meeting in the hallway with members of the Union bargaining team certainly doesn't qualify as an official bargaining session, the request made at that meeting and implemented by the Printer's office accrued to the benefit of the employees and could be viewed as a product of inexperience rather than an attempt to violate the meet and confer statute.


3. In conclusion, the parties in this matter are bound by K.S.A. 75-1017 and the entire Public Employer-Employee Relations Act (K.S.A. 75-4321 et seq.). However, it is incumbent upon both sides to carefully survey the compensation being paid to employees hired by other printing and binding offices employing the same class of labor.


O R D E R

NOW on this 18th day of October, 1982, IT IS THE BOARD'S ORDER as follows:

1. The complaints relative to the years 1977 through 1980 are hereby dismissed by reason of the six-month statute of limitations.
2. Respondents are not guilty of prohibited acts as alleged.


James J. Mangan


Louisa A. Fletcher


Lee Ruggles


Art J. Veach