
In the Matter of Arbitration

Between

Fraternal Order of Police-
Ohio Labor Council

and

The State of Ohio, Department
of Commerce

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Case Number:

21-02-950410-0225-05-02

Before: Harry Graham

APPEARANCES: For Fraternal Order of Police-Ohio Labor Council

Paul Cox
Chief Counsel
FOP-OLC
222 East Town St.
Columbus, OH. 43215

For Department of Commerce

John P. Downs
Labor Relations Administrator
Department of Commerce
77 South High St., 23rd Floor
Columbus, OH. 43215

INTRODUCTION: Pursuant to the procedures of the parties a hearing was held in this matter before Harry Graham. At that hearing the parties were provided complete opportunity to present testimony and evidence. The record in this dispute was closed at the conclusion of oral argument.

ISSUE: At the hearing the parties agreed upon the issue in dispute between them. That issue is:

Did the State violate the Collective Bargaining Agreement? If so, what shall the remedy be?

BACKGROUND: There is no controversy over the events prompting this proceeding. At one time the State of Ohio operated a Department of Liquor Control. Among the job classifications in the Department of Liquor Control were people who worked as investigators and people who worked in the Permit section. (Liquor Control Enforcement Agents and Liquor Control Compliance Officers). Both Enforcement Agents and Compliance Officers routinely drove State-supplied vehicles. These vehicles had on them what are termed "cover plates." That is, their license plates were the sort issued to the general public. They were not license plates carrying the "State Vehicle" designation. Nor were they the same color scheme as State Vehicle license plates.

In due course the State disbanded the Department of Liquor Control. Enforcement Agents were reassigned to the Department of Public Safety. Compliance Officers were assigned to the Department of Commerce. Subsequently, vehicles assigned to Compliance Officers were not provided with the cover plate. They carried a "State Vehicle" license plate.

A grievance protesting this development was filed. It was processed through the procedure of the parties without resolution and they agree it is properly before the Arbitrator for determination on its merits.

POSITION OF THE UNION: The events set forth above occurred during the life of the 1994-1997 Agreement. Article 29, Section 29.03, 4 provides:

Department of Liquor Control
Vehicles driven by Liquor Control Investigators will be maintained according to current policies and procedures. In the Department of Liquor Control, Permit Division Investigators who utilize vehicles for law enforcement purposes shall have such vehicles licensed with cover plates.

When the parties negotiated the 1997-2000 Agreement the language changed. Article 29, Section 29.03, 4 now reads:

Department of Public Safety, Liquor Enforcement
Investigators
Vehicles driven by Liquor Enforcement Investigators will be maintained according to current policies and procedures.

According to the Union, the Compliance Officers, who worked in the Permit Division, had cover plates. They were improperly taken away when the liquor control function of the State was reorganized. As that is the case, the commitment of the State in the 1997-2000 Agreement to maintain current policies and procedures should be continued throughout the life of the present Agreement. In essence, the State improperly took away cover plates in the life of the 1994-1997 Agreement. As that is the case, not only must the State restore the cover plates per the terms of that Agreement, it must continue to issue them to Compliance Officers during the life of the present Agreement. The Union urges the grievance

be sustained and the Employer directed to issue cover plates to Compliance Officers.

POSITION OF THE EMPLOYER: The State points out that the 1997-2000 Agreement at Section 29.03,4 differs from the text of the same provision in the 1994-1997 Agreement. It provides that cover plates be provided to "Liquor Enforcement Investigators." No reference is made to "Liquor Control Compliance Officers." Further, Compliance Officers do not perform undercover tasks of the sort performed by Enforcement Investigators. The State acknowledges that Compliance Officers are enforcing the liquor control statute of Ohio. They do not engage in the sort of law enforcement activity conducted by the former colleagues, the Enforcement Officers. In essence, they check liquor permits. They do not work evenings and nights on a regular basis. The need for them to have cover plates does not exist. The parties recognized this in the 1997-2000 Agreement with is specific to Liquor Control Investigators. As that is the case, the State urges the grievance be denied.

DISCUSSION: The prior Agreement, 1994-1997, set forth detailed provisions for the provision of cover plates to "Permit Division Investigators." The present Agreement differs from its predecessor. It provides for cover plates only to be issued to "Liquor Enforcement Investigators." As

noted above, these are different people than the Permit investigators. They now work in different Departments. Their duties are different. The parties explicitly concerned themselves with this change when they changed the language of Section 29.03,4 in the 1997-2000 Agreement. Cover plate provision was restricted to members of the Department of Public Safety who function as Enforcement Investigators. The Agreement is silent on the matter of providing cover plates to people who are now termed "Compliance Officers" and who work in the Commerce Department. The obvious conclusion is that the parties desired to restrict issuance of cover plates to "Enforcement Investigators" and not to provide them to "Compliance Officers."

When parties negotiate a change in the contract language that new language binds them. In this situation the parties negotiated a change to account for the changed administrative structure of the State. They agreed that holders of a certain job classification, the Enforcement Investigators, would be provided cover plates. People who function as Compliance Officers are not to receive cover plates by the explicit terms of the Agreement.

AWARD: The grievance is denied.

Signed and dated this 9th day of October, 1998 at Solon, OH.

Harry Graham
Harry Graham
Arbitrator