

STATE OF CONNECTICUT

DEPARTMENT OF LABOR

STATE BOARD OF MEDIATION AND ARBITRATION

ARBITRATION AWARD

In the Matter of: : Case No. 2020-A-0177
City of Shelton : Date of Award: March 31, 2022
and : Hearing Dates: June 9, 2021
Shelton Police Union Inc. : August 13, 2021

Location of Hearing: via ZOOM

APPEARANCES: Mark J. Sommaruga
Attorney at Law (For the City)
Barbara J. Resnick
Attorney at Law (For the Union)

PANEL: George M. McMahon, Public Member
Michael C. Culhane, Management Member
Kevin M. Murphy, Labor Member

ISSUE

Did the City violate Article VII and all other relevant articles of the Collective Bargaining Agreement between the City and the Shelton Police Union when it failed to properly assign overtime assignments on February 26, 2020?
If so, what shall the remedy be?

RELEVANT CONTRACT LANGUAGE

ARTICLE VII - OVERTIME

Section 7.04. Scheduling Overtime. In the event the need arises to call someone in on the schedule for more than 3 hours, the shift supervisor shall check the posted availability list to determine which officers are available and will call a replacement from that list. Once the availability list has been exhausted, the city may order in required personnel in reverse department seniority order. There shall be separate availability lists for supervisors (Sergeants and Lieutenants) and for patrol officers. Supervisory positions must be filled by supervisors; patrol positions must be filled by patrol officers. Employees who have signed the availability list shall be offered the first right of refusal of overtime by seniority in the following order:

First, employees on off duty days for the whole shift. Priority will be given to those assigned to the shift where the vacancy occurs, then to those assigned to the other shifts by seniority;

Second, employees working on shift and going off duty for the first half of the vacant shift;

Third, employees working on shift and coming on duty for the second half of the vacant shift.

Supervisors (lieutenants or sergeants) who have signed the Availability List shall be offered the first right of refusal of overtime by department seniority in the following order: First – patrol sergeants; Second – patrol lieutenants; Third – sergeants assigned to other divisions.

When shift vacancies of less than three hours must be filled, the Availability List procedures do not apply. Employees who are working the contiguous shift will be assigned to stay over or come in early. If all such employees refuse the assignment, the number required will be ordered to work by reverse department seniority.

No employee shall work more than 17 consecutive hours of 17 hours in a 24 hour period (including private duty work) except for emergencies.

Section 7.06. Errors in scheduling employees for overtime work shall be corrected through the assignment of future overtime. Employees shall not be paid for overtime hours not actually worked.

BACKGROUND

The Shelton Police Union filed this grievance that the City of Shelton improperly assigned overtime on February 26, 2020.

The grievance wasn't resolved through the preliminary steps of the grievance procedure and the Union appealed this matter to arbitration. The City filed a challenge to arbitrability and a ZOOM hearing was scheduled for June 9, 2021, to address the arbitrability challenge. At that hearing, the city withdrew their arbitrability challenge. With the issue of arbitrability resolved, an evidentiary hearing on the merits of the grievance was scheduled and held via ZOOM on August 13, 2021.

Both parties filed post hearing briefs on September 27, 2021. The panel held Executive Sessions on October 6, 2021, and March 23, 2022.

FACTS

The facts of this case are not in dispute other than which classification of officers should have been asked to work the overtime on the night of February 26, 2020.

On February 26, 2020, a special meeting was scheduled for 5:15 p.m. by the Shelton Board of Education for the purpose of discussing the employment terms for the Interim Superintendent of Schools. The regular Board of Education meeting was scheduled for 7:00 p.m. with both meetings taking place at the

Shelton Intermediate School. One officer from the Patrol Division and two School Resource Officers (SRO) worked the overtime assignment.

The union contends that the SRO'S were improperly assigned the overtime and that only officers from the Patrol Division should have been given the opportunity to work said overtime.

DISCUSSION

Respective rights in accordance with a Collective Bargaining Agreement are clearly at the center of this particular grievance and is the only issue properly before this panel.

The need for this particular overtime assignment originated not only for the special meeting, but it was anticipated that there would be a large crowd present to participate in the public comments section of the regular meeting. The supervisory personnel of the Police Department believed, based on social media accounts, that individuals could become very vocal and passionate concerning items that were listed on the agenda. The postings originated from members of the public voicing their opinions with respect to the Interim Superintendent.

As the result of that anticipated vocal response, additional officers would be required for crowd control and traffic control than assigned to a normal Board of Education meeting. Both concerns, based on the testimony, are normally the function of the officers assigned to the Patrol Division. Supervisory personnel canvassed and assigned SRO'S in lieu of Patrol Division Officers, prior to exhausting the list of eligible officers from within patrol.

The City presents in their respective argument that there is no remedy available to the union, nor have they presented a remedy in accordance with the agreement between the parties. The panel respectively disagrees with this position and finds that Article VII, Section 7.06, addresses the remedy.

AWARD

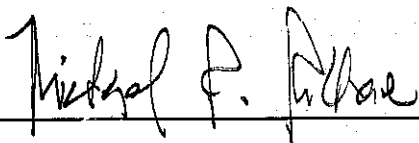
For the reasons set forth herein, the Panel finds that the City has violated the Collective Bargaining Agreement by improperly assigning the overtime on February 26, 2020

BY THE ARBITRATION PANEL:

Gregory M. McMahon
Public Member

* Mr. McMahon was not able to participate in
The writing of this award, the award is issued in accordance
With the majority of the Panel

Michael C. Culhane
Management Member



Kevin M. Murphy
Labor Member

