

IN THE MATTER OF THE *FIRE PROTECTION AND PREVENTION ACT, 1997*
-and-
IN THE MATTER OF AN ARBITRATION

BETWEEN:

THE CORPORATION OF THE CITY OF KITCHENER
- The Employer

- and -

THE KITCHENER PROFESSIONAL FIRE FIGHTERS' ASSOCIATION
- The Union

AND IN THE MATTER OF an interest arbitration regarding a new collective agreement

Arbitration Board: Howard Snow, Chair
Bruce Light, Employer Nominee
Jeffrey Sack, Q.C., Union Nominee

Appearances:

On behalf of the Employer

Robert Little	- Counsel
Reagan Ruslim	- Student-at-Law
Lesley Bansen	- Manager, Human Resources
Dan Daly	- Labour Relations Officer
Doug Paterson	- Director, Human Resources
Tim Beckett	- Fire Chief
Gary Mann	- Deputy Fire Chief
Steve Usher	- Deputy Fire Chief
Rob Browning	- General Manager, Development and Technical Services

On behalf of the Union

Henry Watson	- Advocate
Steve Jones	- President
Peter McGough	- Secretary
Daryl Greb	- Treasurer
James Metzger	- Director
Bill Duncan	- Negotiating Committee
Jeff Noble	- Negotiating Committee

Hearing held November 28, 2006, and March 5, 2007, in Kitchener, Ontario.

AWARD

This is an award in an interest arbitration between the Corporation of the City of Kitchener and the Kitchener Professional Fire Fighters' Association.

A mediation meeting was held November 28, 2006, but was unsuccessful in achieving a resolution of the issues in dispute. An arbitration hearing took place March 5, 2007, with the parties making submissions both orally and in writing. Additional written submissions were received after that hearing.

Since that time this board of arbitration has met in executive session on several occasions and exchanged views on the possible resolution of this matter. Unfortunately the Board was unable to reach a unanimous award. Based on the parties' detailed submissions and on the discussions in the executive sessions, and considering the criteria in the *Fire Protection and Prevention Act, 1997*, I direct that the following changes be made in the collective agreement.

1. ***Duration***

The last collective agreement expired at the end of 2004.

Decision:

I direct that the duration of the collective agreement be four (4) years expiring December 31, 2008.

2. ***24 Hour Shift***

The Union sought a change in the shift schedule with the implementation of a new 24 hour shift on a trial basis. This was opposed by the Employer, which nevertheless indicated that it was prepared to study the matter further.

Decision:

Given the impact that the proposed shift change would have on the operations of the fire department and the number of possible changes that might be required in the collective agreement, I conclude that this is a matter which could benefit from further study. I direct the parties to establish a joint committee of six persons, three persons from the Employer and three from the Union, to study the suggestion of a 24 hour shift schedule. The committee is to report to the parties by the end of 2008.

3. ***Benefit increases***

Article 7.01 provides for health care benefits and for dental plan benefits. A number of those provisions have fixed dollar limits and, of course, without occasional adjustment the real value of the benefits declines.

Decision:

I direct the following benefit increases:

Vision care to be increased from \$225 to \$375.

Orthodontics maximum to be increased from \$2,000 to \$2,500.

Crowns and Caps maximum to be increased from \$1,500 to \$2,500.

4. ***Benefit changes***

Apart from changes in the dollar amount of certain benefits, the parties made proposals for other changes in the benefits. I award three of those proposals.

Decision:

In the drug benefit plan, I direct the inclusion of over-the-counter drugs when they are prescribed. I also direct the inclusion of a maximum for the drug dispensing fee at \$9.00 per prescription.

As for the dental plan, I direct that the dental plan provide for the payment of check-ups for adults (those 19 years of age and older) each nine (9) months.

5. ***Paid-up life insurance***

Article 7.05 contains a requirement for the Employer to provide each fire fighter a paid-up life insurance policy in the amount of \$1,000 until normal retirement date. Since this amount is minimal - the Employer simply pays the amount itself rather than obtain insurance for it - and Article 7.01 of the collective agreement provides for group life insurance in the amount of two times annual earnings, the Employer sought the removal of the \$1,000 life insurance.

Decision:

This benefit confers little real value and, considering the other life insurance coverage provided in this agreement, I direct the deletion of the paid-up life benefit in Article 7.05.

6. *Civilian communications officer*

The Employer operates a Fire Communications Centre under the direct supervision of the Deputy Fire Chief. The Employer proposed two changes in the operation of the Centre.

First, the Employer proposed changing the classification “Civilian Dispatch” to “Civilian Communication Operator.”

Secondly, the Employer proposed to create a new position - a new supervisory level between the dispatchers and the Deputy Fire Chief - called “Civilian Communication Officer.” The Employer proposed a December 31, 2004, salary of \$55,900. The Employer also proposed that an Officer’s salary would increase to \$59,500 after three years working in this position. The Union opposed the creation of the officer position but asked that if the change is awarded, the Union have an opportunity to negotiate the salary.

Decision:

I direct that the employee classification “Civilian Dispatch” become “Civilian Communication Operator.”

I direct that a new classification “Civilian Communication Officer” be established and that the parties meet and negotiate the salary for the position. If the parties are unable to resolve the matter of the salary for the new position within 30 days of the date of this award, either party may refer the issue back to the Board for resolution.

7. *Salaries*

As is common in the fire sector, these parties normally agree upon the salary increase for the first class fire fighter classification and the same percentage increase is applied to the other classifications.

These parties have traditionally compared salaries in this department with those paid in the Cambridge, Guelph and Waterloo Fire Departments. In 2004 the Kitchener first class fire fighter salaries were marginally higher (\$100 to \$200) than those comparable salaries in Cambridge, Guelph and Waterloo.

Since the hearing the following salaries have been established for **2007** - Cambridge Fire at \$73,507, Guelph Fire as of January 1 at \$72,596 and as of July 1 at \$73,322, Waterloo Fire at \$73,513. The comparable salaries for **2008** have also been set - Cambridge Fire at \$75,714, Guelph Fire as of January 1 at \$75,155 and as of July 1 at \$75,907, Waterloo Fire at \$75,718.

These parties have also compared the first class fire fighter salaries with the salaries of first class police officers employed by the Waterloo Regional Police. At the hearing both parties proposed parity with the Waterloo Regional Police for 2005 (\$69,125) and 2006 (\$71,372), those being the only years for which that Police Force had established salary rates. Since the hearing, the salary for Waterloo Police has been set for **2007** at \$73,655 and for **2008** at \$76,012.

Both parties proposed the same salary for **2005** (\$69,125) and **2006** (\$71,372). For **2007** the Union proposed a salary of \$73,640 and the Employer proposed a salary of \$73,513. The parties made no proposals for 2008 salaries.

Decision:

I direct that the salary of the benchmark 1st Class Fire Fighter classification be increased effective January 1, 2005, to \$69,125.00, and effective January 1, 2006, to \$71,372.00, and that the salaries for all other ranks be increased on those same dates by the same percentage. These are the increases the parties had agreed upon.

The parties did not agree upon the salaries for 2007 and 2008. While these parties compare salaries with police salaries, the primary comparison has generally been with the fire salaries in Cambridge, Guelph and Waterloo. Those comparable fire salaries for 2007 and 2008 are lower than those for Waterloo police. One approach would simply be to maintain parity with Waterloo police. However, the parity with Waterloo police approach would lead to an increase in 2007 which is greater than the Union had sought for 2007, and would increase the differences which had existed with the three primary comparable fire departments.

Had these parties reached their own settlement I think they would have agreed to some middle ground between Waterloo police salaries and the three comparable fire salaries, while maintaining the relative position with respect to those three departments. I direct that the salary of the benchmark 1st Class Fire Fighter classification be increased effective January 1, 2007, to \$73,620.00, and effective January 1, 2008, to \$75,939.00, and that the salaries for all other ranks be increased on the same dates by the same percentage (that is, 3.15%).

8. Retention Pay - or the 3%, 6% and 9% allowance

Over the past few years, one of the major issues in both fire and police negotiations has been a new allowance, often referred to as retention pay. The allowance was first introduced for

the Toronto Police to assist with a retention problem experienced there, but the benefit is now common in the police sector and is becoming increasingly common in the fire sector. The allowance, generally in the amount of an additional 3% after eight years of service, 6% after 17 years and 9% after 23 years, has been introduced in jurisdictions with no retention problems.

Both parties relied upon the Cambridge, Guelph and Waterloo Fire Departments as being their primary comparable fire services. In addition, they made comparisons with Waterloo Police. All those organizations now have a 3%, 6% and 9% allowance. The three fire departments phased in the allowance as follows:

January 2006 - 1%, 2%, 3%, in all three fire departments

January 2007 - 2%, 4%, 6%, in all three fire departments, and

July 2007 - the full 3%, 6%, 9% allowance in Cambridge and Waterloo Fire Departments, and

January 2008 - the full 3%, 6%, 9% allowance in Guelph Fire Department.

Effective January 2005, the Waterloo Police began the 3%, 6%, 9% allowance.

Decision:

As noted, these parties have traditionally compared salaries with those in the Cambridge, Guelph and Waterloo Fire Departments and with the Waterloo Police. As all four of those now have this 3%, 6% and 9% allowance, I conclude that if these parties had reached their own agreement they would have included such an allowance. I direct the inclusion of a new allowance called "Recognition Pay" to be implemented as follows:

Effective January 1, 2006, an allowance of 1% after eight years of service, 2% after 17 years and 3% after 23 years,

Effective January 1, 2007, an allowance of 2% after eight years, 4% after 17 years and 6% after 23 years,

Effective July 1, 2007, the full allowance of 3% after eight years, 6% after 17 years and 9% after 23 years.

This is the same implementation schedule as used in the Cambridge and Waterloo fire departments.

The Recognition Pay is to be included as salary in calculating regular pay, overtime, vacation, statutory holiday pay, pension contributions, WSIB and sick pay, but is not to be included in payout of sick leave gratuity.

I note that there have been differences as to whether civilian dispatchers and mechanics should receive the pay. Some arbitrators have not awarded the allowance to these groups, but in the settlements achieved by the parties the clear trend is to include them. I prefer to follow the outcomes achieved through collective bargaining rather than the outcomes of other interest arbitrations. Therefore, I award recognition pay not only to the fire fighters but also to the civilian dispatchers and mechanics.

No doubt other issues will arise and language will need to be developed by the parties in order to implement this new allowance. For clarity, I intend an allowance similar to that agreed upon for the Cambridge Fire Department.

9. *Effective date*

The benefit changes ordered in paragraphs 3 through 5, above, are to be effective as soon as reasonably possible after the date of this award. The changes ordered in paragraphs 7 and 8, above, are to be effective as of the dates specified in those

paragraphs.

10. **Summary and Retention of Jurisdiction:**

I direct the parties to prepare a collective agreement for 2005-2008 based on their last collective agreement and incorporating the above changes, together with any changes they have agreed upon.

The Board will remain seised to deal with any issues which may arise in the implementation of this award or in the preparation of the new collective agreement.

Dated in London, Ontario this 10th day of March, 2008.

Howard Snow, Chair

I dissent

Bruce Light
Employer Nominee

Dissenting in part

Jeffrey Sack, Q.C.
Union Nominee