

FOR THE PUBLIC EMPLOYEES RELATION BOARD FOR THE STATE OF
OKLAHOMA

FRATERNAL ORDER OF POLICE,)
LODGE NO. 105,)
)
 Complainant,)
)
vs.) No. 00217
)
CITY OF GUTHRIE, OKLAHOMA,)
)
 Respondent.)

JLB FINDINGS OF FACT AND CONCLUSIONS OF LAW

This case comes before the Public Employees Relation Board ("PERB" or the "Board") this 18th day of April, 1990 for decision on the charging parties Unfair Labor Practice Charge (ULP). The Board received evidence in this matter and heard the arguments of counsel.

That at the end of said hearing both parties were advised of their right to file proposed findings of fact and conclusions of law and briefs; both parties by and through their attorney waived the right to file proposed findings of fact and conclusions of law and supporting briefs. Thereupon the Board by Mr. Ellis moved to dismiss the complaints of the Complainants due to insufficiency of the evidence to support such claims and to deny their application for a cease and desist order which was seconded by Chairman Caster and unánimously adopted.

The parties were thereafter advised that appellant rights begin to run from and after the 18th day of April, 1990; the attorney for

the Respondent is directed to prepare findings of facts and conclusions of law to be filed within 60 days.

FINDINGS OF FACT

1. City of Guthrie, Oklahoma (Guthrie or City) is a municipal corporation created pursuant to and under the constitution and laws of the State of Oklahoma.

2. Fraternal Order of Police Lodge No. 105 (FOP) is the duly authorized bargaining agent for a bargaining unit comprised of the City of Guthrie Police Officers.

3. The FOP and Guthrie entered into a Collective Bargaining Agreement (CBA) for prior years which is currently in effect because of the "Evergreen" provision of state law.

4. The CBA contract year runs from July 1 through June 31 of each year.

5. That pursuant to notice timely made the FOP and Guthrie entered into negotiations concerning a successor CBA for the fiscal year 1989-1990.

6. That after several bargaining sessions, the FOP made written demand on Guthrie to negotiate wages.

7. That at the January 18, 1990 bargaining session the City of Guthrie offered a zero wage increase and presented its 11/30/89 unaudited treasurer's report (City's Exhibit 3) and had the City Treasurer present to explain such report.

8. That the City of Guthrie did not give a cost of living or other pay raise to any employee other than as required by previous contract for the fiscal year in question.

9. That thereafter the FOP brought this ULP charge listing as one of three complaints the refusal of the City to negotiate a wage increase because of the city's position in offering a zero wage increase.

10. That for the fiscal year 1989-90 the City substantially changed the health insurance coverage for all its employees (See City's Exhibit 10).

11. That the City of Guthrie annually goes out for bid for health insurance for all its employees (including the FOP) or annually renews its coverage with the same carrier, but that for each of the past four years there have been some changes in coverage.

12. That Article 16 of the CBA covers insurance and states: "The Employer will continue to provide group health and life insurance to the employees covered under this agreement, and if the employees so desire, they may cover their dependents at their own expense."

13. That Guthrie did not negotiate with the FOP the change in health insurance coverage.

14. That one of the complaints in the instant ULP is that Guthrie changed to a completely different type of insurance policy in violation of past practice of providing a specific insurance policy without negotiating or discussing any changes with the FOP.

15. That a third complaint in the ULP was held in abeyance pending settlement prior to hearing and no evidence was introduced concerning said third issue.

CONCLUSION OF LAW

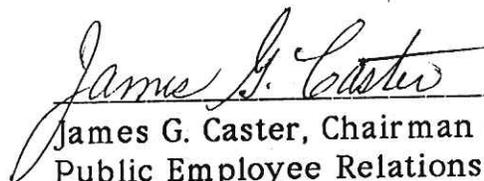
1. The PERB has jurisdiction over the parties and subject matter of this dispute pursuant to 11 O.S. §51-104(b).

2. In an administrative hearing before the PERB, the Complainant has the burden of persuasion by preponderance of the evidence as to the factual issues raised in its charges. Rule II Q, Rules of the PERB, See also Prince Manufacturing Company v. United States, 437 F.Supp. 1941 (1977). In this case the Complainant has failed to meet this burden. That Complainant has failed to demonstrate that the actions of Respondent were in violation of 11 O.S. §51-102 relative to the issue of bargaining on wages. In addition, Complainant has failed to demonstrate that changes in insurance were not permissible in light of past practices and pursuant to the collective bargaining agreement.

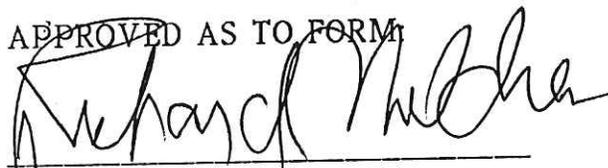
DISMISSAL

The Board is persuaded that, in this case, the evidence is insufficient to establish an unfair labor practice and the Complaint is accordingly dismissed.

DATED this 26th day of August, 1990.


James G. Caster, Chairman of the
Public Employee Relations Board,
State of Oklahoma

APPROVED AS TO FORM


Richard A. Mildren
Attorney for Complainant



Richard O. Burst, Sr.
Attorney for Respondent