

BEFORE THE ARBITRATOR

 In the Matter of the Arbitration :
 of a Dispute Between :
 : Case 166
 CITY OF OSHKOSH (FIRE DEPARTMENT) : No. 46814
 : MA-7075
 and :
 :
 INTERNATIONAL ASSOCIATION OF :
 FIREFIGHTERS, LOCAL 316 :
 :

Appearances:

Mr. Timothy R. Franz, Secretary-Treasurer, International Association of Firefighters, Local 316, 2090 Shawnee Lane, Oshkosh, Wisconsin 54901, appearing on behalf of the Union.
Mr. John W. Pence, City Attorney, City of Oshkosh, 215 Church Avenue, Room 401, Oshkosh, Wisconsin 54901, appearing on behalf of the City.

ARBITRATION AWARD

The City of Oshkosh (Fire Department), hereinafter referred to as the City, and the International Association of Firefighters, Local 316, hereinafter referred to as the Union, are parties to a collective bargaining agreement, effective January 1, 1991 through December 31, 1992, which provides for final and binding arbitration of grievances concerning any dispute over the interpretation, application or compliance with the provisions of the collective bargaining agreement. Pursuant to a request for arbitration the undersigned was appointed by the Wisconsin Employment Relations Commission to arbitrate a dispute over the wearing of name tags. Hearing on the matter was held in Oshkosh, Wisconsin on March 4, 1992 whereat the parties presented oral arguments, testimony and evidence. Full consideration has been given to the testimony, evidence and arguments presented in rendering this Award.

ISSUE

"Is the wearing of a nametag that includes the firefighter's first and last name an unreasonable or preventable safety risk, and would the firefighter's safety and security be improved by wearing either a first name or no nametag?"

PERTINENT CONTRACTUAL PROVISIONS

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ARTICLE XV

PRESENT BENEFITS

The parties agree to maintain the present level of benefits and policies that primarily relate to mandatory subjects of bargaining, not specifically referred to in this agreement. This provision is expressly limited to mandatory subjects of bargaining.

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ARTICLE XXVI

UNIFORM ALLOWANCE

Effective in 1989, One Hundred Seventy-five Dollars (\$175.00) initial uniform allowance will be paid to employees upon entry to the Fire Department and completion of fifteen (15) work days service. Annual uniform allowance shall be \$175.00 per year to be paid in January of each year. In the event an employee has worked less than 12 months in the preceding calendar year the amount shall be prorated. A new dress uniform shall be purchased by each new employee within thirty (30) days after completion of his probationary period. In addition, the City shall provide all turnout gear.

The union agrees that it is the right of the Chief to determine the type and style of uniform to be worn by the men. The City, however, agrees that no major changes will be implemented during the life of this contract.

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PERTINENT UNIFORM POLICY PROVISION

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JACKET

Specified type jackets. Extra garments worn in the station, because of cool temperatures, are acceptable if navy blue in color. This would include sweaters, vests and quilted jackets. When leaving quarters for any purpose the prescribed uniform jacket will be worn. The work uniforms shall, at all times, display all issued badges, insignias and name tags. For pre-scheduled work or training sessions, old clothes are acceptable by the officers permission.

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Amongst its various governmental functions the City operates a Fire Department and for a number of years the City has had collective bargaining

agreements with the Union. Since at least 1979 the city has had a policy requiring employes of the Fire Department to wear name tags. On April 4, 1986 the City established a written dress code which prescribed that all employes shall at all times display on their work uniform a name tag. Since 1979, the name tag has contained the employe's first and last name.

The parties have also established a departmental safety committee. On May 9, 1991 the safety committee met to discuss several topics. Among the topics discussed by the safety committee was the wearing of name tags. On May 9, 1991 the committee made five (5) recommendations to Fire Chief Stanley Tadych including the following recommendation concerning name tags:

OFD Safety Committee
Minutes of May 9, 1991 meeting
8:00 AM - Central Fire Station

Members Present: V. Kraus, D. Barter, T. Franz,
G. Piper, K. Gerarden.

Minutes of the Sept. 27, 1990 meeting were read.

Discussion was held on firefighters' badges and nametags. Recommendation #1 was adopted.

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Recommendation #1

Re: Firefighters' badges and nametags.

Experience suggests that although the department badge tends to enhance firefighters' credibility and authority at an emergency scene, wearing the full name on the nametag leaves firefighters and their families vulnerable to possible harassment by hostile or irrational patients and/or bystanders. Therefore, to maintain a degree of anonymity and security for firefighters and their families:

The committee recommends: 1) that no nametag be worn; or alternatively, 2) that a first-name only be worn.

On August 9, 1991 Chief Tadych denied the recommendation concerning name tags.

On November 7, 1991 the Union's Secretary/Treasurer filed the following grievance with Chief Tadych:

Chief Stanley Tadych
Oshkosh Fire Department
101 Court St.
Oshkosh, Wi. 54901

Dear Chief Tadych:

This letter is to inform you that we are pursuing the grievance on the inclusion of last names appearing on name tags to step two in the grievance procedure.

As you know this issue has been brought to your attention by the safety committee at its last meeting.

Since no action has been taken on this matter I have been directed by the union body to file a safety grievance on this issue.

It is our contention that, by having last names appear on name tags that it places our members at risk of being harrassed (sic) by patients or others contacted in the field. At times we are placed in close contact with disturbed and upset individuals, who have looked at our name tags, repeated our names back to us with accompanying threats. If you wish, I can provide you with several instances where this has happened, as well as some threats that were made to individuals some time after the contact had taken place.

At this time we ask that the last names be removed from our name tags to avoid these situations from taking place and becoming a major problem. Thank you for consideration in this matter and I hope that we may come to a solution that ensures the safety of the personnel both on and away from the job.

Sincerely,

Timothy R. Franz /s/
Timothy R. Franz Sec./Treas.
Oshkosh Firefighters Local 316
2090 Shawnee Ln.
Oshkosh Wi. 54901

Thereafter the matter was processed to the arbitration step of the parties' grievance procedure.

At the hearing both parties presented oral arguments, evidence and testimony from witnesses concerning threats made by people against employes of the City while the employes were performing there duties. Firefighter David Gee, a paramedic, testified that on several occasions unruly patients under the influence of alcohol or other substances have threatened him and other paramedics. In one instance an individual who had to be subdued by police officers threatened him, and after reading his name tag, threatened him by name. Gee further testified after delivering the individual to the hospital the person was released in thirty (30) minutes. Further, that the City has no written policy on what to do in threatening or harassing incidents, speculated that the problem is getting worse and testified that there is nothing to prevent someone from "going after" the employe or the employe's family. Gee also testified that if an employe is threatened or the employe's family is threatened a substantial amount of time goes by before the employe can get home or warn his family about the threat.

Detective James Busha, an employe of the City's Police Department for six and one half (6 1/2) years, testified that when he was a patrolman he had observed more than one incident where combative or disturbed patients had threatened paramedics. Nursing Director Susan Kellog of the Mercy Medical Center in Oshkosh testified the Center's employes wear nametags that only identify a person's first name. Fire Captain Steven Peterik, a nineteen (19)

year employe, who had been a paramedic for ten (10) years, testified that when an employe is threatened the person who is doing the threatening reads the employe's name tag usually stating something like "I know you, I'm going to come and get you". Peterik also testified that he was once hurt by the name tag when it poked him in the chest. However, he never reported the incident to anyone.

Fire Chief Gary Kaufmann testified he had been with the Department for twenty-five (25) years and that he was familiar with paramedic runs. Kaufmann also testified that between 1985 and 1991 the Department had 13,287 Medical runs and 6,834 First Responder runs. During that time frame he had received two (2) informal complaints about name tags. Subsequent to the filing of the instant grievance, on November 14, 1991, he received the first injury report concerning a name tag.

DISCUSSION

The parties' collective bargaining agreement clearly states in Article XV that they will maintain the present level of benefits and policies that primarily relate to mandatory subjects of bargaining not specifically referred to in the collective bargaining agreement. Article XXVI clearly states that the Fire Chief has the right to determine the type and style of the uniform; however, it also specifies that no major changes will be made in the uniform during the life of the collective bargaining agreement. Since the early 1970's the parties have had in effect an informal policy which required the wearing of name tags. The name tags identify the employe's first and last name. Since April 2, 1986 there has been a written policy in effect which requires employes to wear uniforms to and from work and during duty hours. Further, the written policy requires the work uniform to display at all times all issued badges, insignias and name tags. Thus the record demonstrates not only that name tags since the early 1970's have contained the employe's first and last name, but also that the parties have an agreement that no major changes will be made in the employe's uniform during the term of the collective bargaining agreement.

Neither party specifically addressed the question of whether the change sought by the Union was a "major" change in the uniform. The Union has argued the wearing of name tags places employes unnecessarily at risk. The City has argued the language of the collective bargaining agreement supports the City's position and has argued it is good public policy to allow the public a knowledge of Fire Department personnel who are providing Fire Department services and entering the public's homes and places of business.

The undersigned notes here that the Fire Chief testified there were about twenty thousand (20,000) duty runs by employes between 1986 and the date of the hearing. This testimony was undisputed by the Union. While the Union did present testimony concerning several specific incidents where an employe was identified by name and harassed, threatened or injured the Union did not present any documented evidence which would identify the total number of times employes had been harassed or threatened by name or injured as a result of name tags. At most the record demonstrates two (2) minor injuries and several occasions where paramedics or firefighters had been threatened. The burden herein is on the Union to demonstrate the wearing of name tags poses an unreasonable or preventable safety risk to employes. Given the total number of duty runs and the few documented incidents of threats, harassment or injury, the undersigned concludes the Union has failed to meet this burden.

The undersigned also finds it is the burden of the Union to demonstrate that the change in the uniform it seeks is not a "major" change. The City has purchased name tags for all Fire Department employes. There is no evidence of what the name tags cost the City or what costs the City would incur if it were

required to issue new first name only name tags. While such costs could be deemed inconsequential given the City's resources, it is the Union's burden to demonstrate the costs are inconsequential. Absent such evidence in the record, even if it may seem trivial, the undersigned cannot conclude the change the Union seeks in the uniform is not a "major" change. A direction that the City cease requiring employes to wear name tags would result in a wasted resource. A direction that the City issue new "first name only" name tags would require the City to incur an expense. Thus the undersigned concludes the Union has failed to meet its burden that the change it seeks is not a "major" change in the agreed upon uniform.

While the record demonstrates current City policy does not require employes to document situations where they have been threatened or harassed, the parties' agreement does not prevent employes from so doing and informing the City when such instances occur. The Fire Chief testified that only two (2) such incidents were ever brought to his attention. If the Union can demonstrate that threatening incidents are increasing and that the City is placing employes unnecessarily at risk, given the stipulated issue before the undersigned, a different conclusion may have been reached. The question of public policy versus employe safety would have to be addressed by the undersigned. However, the Union first has to meet the burden that the change it seeks is not a "major" change in the uniform and the Union has to meet the burden that employes have been unnecessarily placed at risk as a result of the City's name tag policy. The undersigned finds that the Union has failed to meet these burdens and therefore the question of public policy versus safety need not be resolved. The undersigned concludes that based upon the above and foregoing, the language of Article XV and Article XXVI, the length and duration of the wearing of name tags, and the limited number of documented threats or harassment of employes and the limited number of documented injuries to employes, the Union has failed to meet its burden of proof that employes have been placed unnecessarily at risk by the City. The grievance is therefore denied.

AWARD

The wearing of a nametag which includes the firefighter's first and last name is not an unreasonable or preventable safety risk and the safety and security of firefighters would not be improved by wearing either a first name or no name tag.

Dated at Madison, Wisconsin this 26th day of May, 1992.

By Edmond J. Bielarczyk, Jr. /s/
Edmond J. Bielarczyk, Jr., Arbitrator