

**STATE OF DELAWARE**  
**PUBLIC EMPLOYMENT RELATIONS BOARD**

<b>IN THE MATTER OF:</b>	:	
	:	
<b>FRATERNAL ORDER OF POLICE LODGE 4,</b>	:	<b>REMAND ON REVIEW OF</b>
	:	<b>THE DECISION OF THE</b>
<b>AND</b>	:	<b>BINDING INTEREST</b>
	:	<b>ARBITRATOR</b>
	:	
<b>CITY OF NEWARK, DELAWARE.</b>	:	<b><u>BIA 02-01-338</u></b>

**BACKGROUND**

The City of Newark, Delaware, (“City”) is a public employer within the meaning of §1602(l) of the Police Officers’ and Firefighters’ Employment Relations Act, 19 Del.C. Chapter 16 (1986).

Fraternal Order of Police Lodge 4 (“FOP”) is an employee organization within the meaning of 19 Del.C. §1602(g). FOP Lodge 4 is the certified exclusive bargaining representative of a bargaining unit of "all active members of the Newark Police Department, excluding the Chief of Police, Cadets, Secretarial and Clerical Personnel, Maids and all others", within the meaning of 19 Del.C. § 1602(h).

On February 9, 2001, the City informed the Public Employment Relations Board (“PERB” or “Board”) the parties were at an impasse in negotiation of a successor to the collective bargaining agreement which would expire March 31, 2001. PERB appointed a mediator to assist the parties pursuant to 19 Del.C. §1614. After unsuccessful attempts to

mediate the outstanding issues, the mediator, without objection from either party, referred the matter to binding interest arbitration pursuant to 19 Del.C. §1615.

A public hearing was conducted on September 14, 2001, before the PERB Executive Director, acting on behalf of the full Board as the Interest Arbitrator, pursuant to 19 Del.C. §1615(b). Following the receipt and consideration of written post-hearing argument, the Decision of the Interest Arbitrator was issued January 7, 2002, holding:

Based on the record created by the parties, consideration of the statutory factors, and weighing the last, best and final offers in their totality, the FOP has not carried its burden to support its proposal as the more reasonable and necessary, particularly as it relates to Workers Compensation and the addition of the rank of PFC.

Consequently, based upon the statutory criteria set forth in 19 Del.C. §1615 (each of which was considered in reaching this determination), the last, best and final offer of the City of Newark is accepted in its entirety.

FOP Lodge 4 filed a Request for Review of the Decision of the Binding Interest Arbitrator by the full Board on January 15, 2002, and the City of Newark filed its Response to the Request on January 28, 2002. FOP Lodge 4 filed a Reply to the City's Answer on February 15, 2002.

The Board convened a public hearing on Wednesday, April 10, 2002, to consider the Request for Review. Each Board Member had a copy of the complete record created before the Binding Interest Arbitrator.

**REMAND ORDER**

Based upon the record presented, it is the decision and order of the Board, upon unanimous vote, that this matter is remanded to the Arbitrator to accept additional evidence and/or argument specifically as to:

1. The basis for the respective salary proposals of the parties, including the FOP's proposal to include the additional rank of Patrolman First Class;
2. The basis and cost of the City's Flexible Benefit Plan proposal, including the rationale for the reduction in points from 126 to 89.

The Arbitrator is also directed to state written findings of fact for each issue.

**IT IS SO ORDERED this 1st day of May, 2002.**

*/s/Henry E. Kressman* \_\_\_\_\_  
HENRY E. KRESSMAN, Chairman  
Public Employment Relations Board

*/s/R. Robert Currie, Jr.* \_\_\_\_\_  
R. ROBERT CURRIE, JR., Member  
Public Employment Relations Board

*/s/Elizabeth Daniello Maron* \_\_\_\_\_  
ELIZABETH DANIELLO MARON, ESQ., Member  
Public Employment Relations Board