

the case was not a matter of first impression, nor one involving egregious or repetitive violations

5 This Board found Respondent violated ORS 243 672(1)(e) when it made decisions concerning mandatory subjects of bargaining, and took significant steps in implementing those decisions, without fulfilling its good faith bargaining obligation.

We typically make an average award in unilateral change cases. *OSPOA v. Dept. of State Police*, Case No. UP-24-00 (Rep. Cost Order, February 2002); *FOPPO v. Washington County*, Case No. UP-70-99 (Rep. Cost Order, October 2001). Respondent correctly notes that this case did not involve matters of first impression. A novel case or one presenting issues of first impression would lead to a smaller than average award to avoid discouraging litigation of such matters. *Eugene Police Employee Association v. City of Eugene*, Case No. UP-5-97, 18 PECBR 95 (Rep. Cost Order, June 1999); *OSEA v. Coos Bay School District*, Case No. C-159-84, 9 PECBR 8585 (Rep. Cost Order, March 1986). The absence of that factor supports an average award. There are no other factors arguing strongly for either an enhanced or reduced award. We therefore conclude that an average award is appropriate.

Our usual practice is to award approximately one-third of the adjusted fees claimed in most cases. *Oregon Nurses Association v. Oregon Health Sciences University*, Case No. UP-3-02 (Rep. Cost Order, May 2002). Having considered the appropriate amounts for services rendered, our awards in similar cases, and the policies and purposes of the Public Employee Collective Bargaining Act, this Board awards Complainant representation costs in the amount of \$2,200.

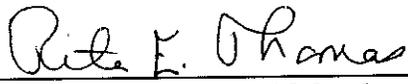
ORDER

Respondent is ordered to remit \$2,200 to Complainant within 30 days of the date of this Order.

DATED this 14th day of June 2004

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Paul B. Gamson, Chair



Rita E. Thomas, Board Member



Luella E. Nelson, Board Member

This Order may be appealed pursuant to ORS 183.482.

*Chair Gamson has recused himself from this case.