

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-49-02

CITY OF PORTLAND)	
PROFESSIONAL EMPLOYEES)	
ASSOCIATION,)	
)	
Complainant,)	
)	FINDINGS AND ORDER ON
v.)	RESPONDENT'S PETITION
)	FOR REPRESENTATION COSTS
CITY OF PORTLAND,)	
)	
Respondent.)	
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This Board issued an Order on August 28.¹ Respondent filed a petition for representation costs on September 18. Complainant filed objections to the petition on October 7. Pursuant to Board Rule 115-35-055, this Board finds as follows:

1. Respondent is the prevailing party.
2. Respondent filed a timely petition for representation costs, and Complainant filed timely objections to the petition.²
3. Respondent seeks \$3,500, the maximum permitted under this Board's rules. The request is based on 40.2 hours of legal services valued at \$97.49 per hour.
4. The hourly rate is considerably below average, a factor we will consider in establishing the appropriate award.
5. The dispute was submitted directly to this Board on stipulated facts and written argument. The number of hours claimed significantly exceeds the range of 16-25 hours typically devoted to cases presented on stipulated facts. *Oregon Public Employees Union, SEIU Local 503 v State of Oregon, Dept. Of Administrative Services*, Case Nos. UP-23/44-97 (Rep. Cost

¹All dates are 2003 unless noted.

²This Board granted Complainant's request for an extension of time. Complainant filed its objections within the time as extended.

Order, June 1998).³ We will consider this factor in setting the amount of the award.

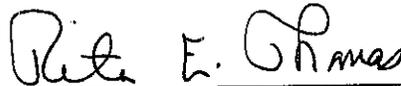
6 The complaint charged Respondent with violating ORS 243.672(1)(g) by refusing to arbitrate a series of grievances. This Board determined that the group of employees, on whose behalf the grievances were filed, were not members of the bargaining unit. We concluded with "positive assurance" that the City was not obligated to arbitrate these grievances, and we dismissed the complaint. We did not, however, find that pursuit of the complaint was frivolous. In these circumstances, we conclude that an average award is appropriate.

Having considered the parties' submissions, the reasonable charge for services, our awards in similar cases, and the policies of the Public Employee Collective Bargaining Act, this Board awards Respondent \$700 in representation costs.

ORDER

Complainant shall remit \$700 to Respondent within 30 days of this Order.

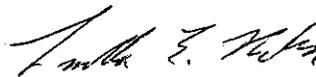
DATED this 31st day of October 2003.



Rita E. Thomas, Chair

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Paul B. Gamson, Board Member



Luella E. Nelson, Board Member

*Member Gamson concurs with this Order but was absent on the date of signing.

This Order may be appealed pursuant to ORS 183.482.

³Respondent asserts that the number of hours spent, although greater than average, was nevertheless reasonable because the stipulation occurred so close to the scheduled hearing date that it was necessary to spend time preparing for the hearing. We note that the daily time log submitted in support of the petition indicates that no more than 6.5 hours were spent on hearing preparation, and 1.3 hours of that preparation time occurred after the parties reached their stipulation. Even if we subtract the preparation time, the number of hours is still larger than average. In any event, some hearing preparation is a natural part of most stipulated fact cases. We have already taken that into account in determining the typical range of time expended in such a case.