

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. UP-76-99

WASHINGTON COUNTY POLICE)
OFFICERS' ASSOCIATION,)

Complainant,)

v.)

WASHINGTON COUNTY,)

Respondent.)

FINDINGS AND ORDER ON
COMPLAINANT'S PETITION FOR
REPRESENTATION COSTS

This Board issued an Order on March 8, 2001, which concluded that Respondent violated ORS 243.672(1)(g) when it refused to implement an arbitration award. 19 PECBR 100 (2001). Respondent sought judicial review and the Court of Appeals reversed. 181 Or App 448, 45 P3d 515 (2002). The Supreme Court reversed the Court of Appeals and remanded the case so the court could consider issues it did not decide in its initial decision. 335 Or 198, 63 P3d 1167 (2003). On remand, the Court of Appeals affirmed this Board's decision in favor of Complainant. 187 Or App 686, 69 P3d 767 (2003). Pursuant to Board Rule 115-35-055, we make the following findings:

1. Complainant is the prevailing party.

2. Complainant filed a petition for representation costs on March 26, 2001, and Respondent filed objections to the petition on April 4, 2001. Both the petition and the objections were timely.

3. Complainant requests an award of \$3,500, the maximum amount permitted under Board rules. According to the affidavit accompanying the petition, counsel devoted 24.5 hours¹ to the case at \$175 per hour, for total representation costs of \$4,287.50.

4. The parties submitted this matter on stipulated facts. Complainant submitted briefs to the Administrative Law Judge and to this Board, and it orally argued

¹The time sheet summary presented along with the affidavit indicates counsel spent more than the number of hours claimed in the petition

its case to the Board. The number of hours claimed is within the normal range for a case presented on stipulated facts. The hourly rate is in excess of the average, a factor we will take into account in formulating the award.

5. Respondent urges us to refuse to award representation costs. It argues that the case was a factual variation on established precedent, that it was not guilty of aggravated, pervasive or repetitive conduct, and that it raised serious concerns. Under ORS 243.676(2)(d), this Board is *required* to award representation costs if any are incurred by a prevailing complainant. *Gresham Grade Tchrs. v. Gresham Grade Sch. Dist.*, 52 Or App 881, 896, 630 P2d 1304 (1981). Even if we had discretion to refuse an award of representation costs, we would not exercise it here. This is a case where such an award is warranted.

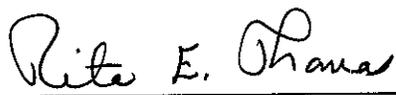
6. This Board concluded that Respondent violated ORS 243.672(1)(g) when it refused to accept the terms of an arbitration award. The policy of the Public Employee Collective Bargaining Act (PECBA) favors the resolution of contract disputes through the arbitration process. To further this policy, this Board typically makes a greater-than-average award in cases where a party refuses to accept an arbitration award. *Cascade Bargaining Council v. Bend-LaPine School District No. 1*, Case No. UP-33-97 (Rep. Cost Order, July 20, 1998). We will follow that practice here.

Having considered the reasonable charges for services rendered, our awards in similar cases, and the purposes and policies of the PECBA, this Board awards Complainant representation costs of \$1,600.

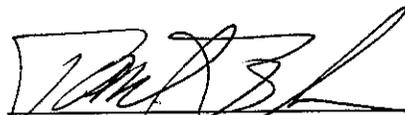
ORDER

Respondent shall remit \$1,600 to Complainant within 30 days of the date of this Order.

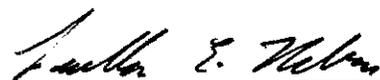
DATED this 8th day of September 2003.



Rita E. Thomas, Chair



Paul B. Gamson, Board Member



Luella E. Nelson, Board Member

This Order may be appealed pursuant to ORS 183.482.