
Halifax Regional Council
March 26, 2002

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY:



George McLellan, Chief Administrative Officer

DATE: 21 March 2002

SUBJECT: Proposed Withdrawal from Operations Stabilization Reserve Q308

ORIGIN

January 15, 2001 arbitration decision regarding a grievance concerning the payment of acting pay to firefighters or lieutenants who assumed the duties of Captain.

RECOMMENDATION

It is recommended that :

Council approve the withdrawal of funds in the amount of \$175,620.49 from the Operations Stabilization Reserve, Q308, to cover the settlement costs of an arbitration decision.

BACKGROUND

On April 10, 1998, Halifax Regional Professional Firefighters Association (I.A.F.F. Local 268) filed a grievance alleging that the Employer refused to pay acting pay to members of the bargaining unit who acted in a higher position than they normally held. The Union maintained that this refusal was contrary to Article 43.13 of the Collective Agreement.

This Article was part of the Collective Agreement signed effective February 6, 1998. Throughout the negotiations, the Union was insistent upon the collective agreement containing an acting pay provision. The Employer resisted this demand. In the end the parties agreed on the language of Article 43.13:

43.13 Employees who have qualified for an officer's position and have their name on a current promotional list may act in that position, at either level, when required. If an employee is required to perform the duties of the rank of lieutenant and above, he shall receive the Level 2 rate of pay. If an employee covered by this agreement is required to temporarily perform the duties of a lower classification because of injury or sickness, he shall receive the salary of his permanent rank.

However both parties held very different views as to its proper interpretation.

Hearings were held on February 14, 15, 23, 2000.

The employer stated that the union's interpretation of Article 43.13 ignored the qualifying phrase "when required" in the first sentence and the words "is required" in the second sentence. In its view, these words gave management discretion with respect to acting pay. The employer also contended that the union had failed to prove that the lieutenants were performing work beyond their present job description. There was a large degree of overlap between the positions of lieutenant and captain which was reflected in the pay scale. Thus, the employer argued, the lieutenants were already being compensated for the occasional performance of captain's duties and were not entitled to acting pay.

On January 15, 2001 the arbitrator submitted his decision concluding that the grievance must be sustained. The Employer was directed to pay acting pay, at the Level 2 Captain's rate, to all Lieutenants and Firefighters on those occasions when they had been assigned to be in charge of a station.

DISCUSSION

On March 13, 2001 Fire Service Management meet with the Union to discuss the decision. Discussion was held concerning Stations 11 and 18 and the eligibility of individuals in these stations to receive acting pay. It was management's stand that they were ineligible for a couple of reasons. One, stations officers had never been posted to these stations prior to amalgamation and two, the firefighter posted to these stations refused to complete any of the necessary paper work. It was also the responsibility of the captain in the closest station to supervise the crews at Station 11 and 18. The union was also notified at this meeting that management would be setting criteria, based on the jobs description to determine if the job of captain had been performed. The following criteria were

established and the union notified: documentation of incidents, fire prevention/public education activities, reports completed, training activities, station work, apparatus checked. This information would be extracted from the day sheets which must be completed by the Station Officer. Three administration staff were assigned to this task. Other responsibilities were put on hold and overtime was paid to try and complete this labor intensive task in a timely manner.

At the August Labour Management Meeting management was advised that the union did not agree with the use of the criteria and would be referring the issue back to the arbitrator to determine the amount of compensation.

A hearing was held on November 13, 2001. It was agreed that management and the union would meet to resolve the issue.

On January 9, 2002, Management advised the union that it agreed to the following:

- to pay acting pay to Lieutenants assigned to stations without Captains.
- to use agreed upon criteria in determining the firefighters who should receive acting pay.

On February 13, 2002, Management reached an agreement with the Union.

BUDGET IMPLICATIONS

As this ruling was not reasonably anticipated, nor can its ramifications be managed within the Fire Services operating budget, a withdrawal from the Operations Stabilization Reserve meets the criteria set out in the Reserves Business Case, as confirmed with staff of Finance. Financial services staff have reviewed and have identified that funds are available through the Operations Stabilization Reserve account (Q308).

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

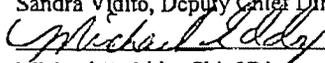
As reported at third quarter, Fire Services is projecting a deficit of \$112,000 as a result of costs related to Operation Sleepover. The cost of this award could be absorbed into the operating accounts of Fire Services, thereby, further increasing the deficit for fiscal year 2001/02.

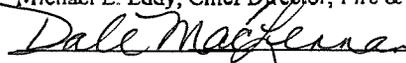
ATTACHMENTS

None.

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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