CASE NO. Al-045372

ITEM NO. 158

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

** ** **

In the Matter of a Petition)
  for Declaratory Ruling)
        by)
)   DECLARATORY RULING
CITY OF NORTH LAS VEGAS,)
)
        Petitioner.)
_____)

For the Petitioner: ROY WOOFTER, Esq. and TERRANCE P. MARREN

For the Respondent: NORMAN TY HILBRECHT, Esq.

For the EMRB Board: ELIZABETH S. FOREMASTER and SALVATORE C.
                    GUGINO, Esq., Members of the Board

STATEMENT OF THE CASE

Petitioner's Complaint arises out of its dispute with the Respondent as to whether a layoff or reduction in force is a proper subject of arbitration under the arbitration clause of their collective bargaining agreement with Respondent. Petitioner refused to arbitrate a grievance concerning such layoffs or reductions-in-force. Respondents, however, proceed forward with the selection of an arbitrator, who in turn, stayed further hearing pending resolution of the Petition for Declaratory Ruling now before this Board.

1. AN EMPLOYER HAS THE RIGHT TO CONDUCT A REDUCTION IN FORCE

An employer has the right, pursuant to NRS 288.150(3), to lay off or conduct a reduction-in-force of its employees. However, the employer may choose, during negotiations, to bargain away that right pursuant to NRS 288.150(6).

.....

2. AN EMPLOYER MUST NEGOTIATE REDUCTION-IN-FORCE PROCEDURES

Although a layoff or reduction-in-force is not a mandatory subject of bargaining under NRS 288.150(2), an employer is required to negotiate procedures for a reduction-in-force pursuant to NRS 288.150(2)(t).

3. REDUCTIONS IN FORCE MAY, UNDER CERTAIN CIRCUMSTANCES, BE ARBITRABLE

A reduction-in-force is a matter subject to grievance and arbitration procedures where the negotiated collective bargaining agreement provides for such a procedure to settle disputes arising out of the contract and the "reduction-in-force" clause is not specifically excepted from said procedure. As pointed out in Butcher's Union Local 229 v. Cudahy Packing Company, 50 Cal.Rptr. 713, 428 P.2d 849 (1967),

> "We follow the command of the United States Supreme Court that 'doubts should be resolved in favor or arbitration.' Although the issue here is subject to debate, we surely cannot say with 'positive assurance' that the arbitration section does not cover the controversy. We interpret the arbitration provision as a viable and valuable means for the resolution of disputes that otherwise might erupt into social harm."

FINDINGS OF FACT

1. That the arbitration clause of the collective bargaining agreement between Petitioner and Respondent was in full force and effect at the time the grievance concerning reduction-in-force arose.

CONCLUSIONS OF LAW

1. That the CITY OF NORTH LAS VEGAS has the prerogative, pursuant to NRS 288.150(3), to determine whether to lay off certain of its employees;

2. That reduction-in-force is not a mandatory subject of bargaining under NRS 288.150(2), but is subject to the procedural negotiation requirements of NRS 288.150(2)(t);

-2-

3. That NRS 288.150(6) expands the scope of negotiability to include permissive subjects of bargaining which the employer may agree to;

4. That "reduction-in-force" may be subject to grievance and arbitration procedures where the negotiated collective bargaining agreement provides for such a procedure to settle disputes arising under the contract and the "reduction-in-force" clause is not specifically excepted from said procedure;

5. That the Board has original jurisdiction to determine issues arising out of the application or interpretation of NRS Chapter 288.

                              C O N C L U S I O N

Under the circumstances of this case, it is the opinion of this Board that the parties have adequate remedies available under the grievance or arbitration procedures of their contract or in the courts.

DATED this 13ᵗʰ day of August, 1983.

                              LOCAL GOVERNMENT EMPLOYEE
                              MANAGEMENT RELATIONS BOARD

                              By _____
                                 ELIZABETH S. FOREMASTER

                              By _____
                                 SALVATORE C. GUGINO

Distribution:

Certified Copies: Roy Woofter, Esq.
                    Norman Ty Hilbrecht, Esq.

XC: Russell D. Marchand, IAFF 1607
                    Board Members
                    Mailing List

-3-