

The evidence clearly shows that the Union has not endorsed or in any way agreed to the proposed shift changes. Furthermore the Union has shown by a preponderance of evidence that the unilateral schedule changes on February 25, 2004, proposed by management would be a violation of Article 22, Work Week and Overtime. Section 22.1 states clearly that, "The current schedule of twenty-four (24) hours on duty and forty-eight (48) hours off duty shall be continued for Fire Suppression employees covered by this agreement," and states the only exception is, "that every fourteenth shift will be scheduled time off." It further states that, "The work hours and work week of employees assigned to other divisions or activities of the Fire Department shall be determined by the Fire Chief to meet the needs of the Department and provide the most efficient service to the community." Between these two statements referring to Fire Suppression employees and non-Fire Suppression employees assigned to other divisions or activities of the Department is language that requires management to, "consult with the Union a minimum of thirty (30) calendar days prior to the implementation of any new work schedule." The City claims the language about consulting with the Union prior to implementing a new work schedule pertains to Fire Suppression employees as well as non-Fire Suppression employees in the Fire Department. The Union argues that the consultation language regarding the implementation of any new work schedules refers to only non-Fire Suppression employees whose work hours and shifts were not guaranteed by other language in this section. The Union argues that the 24 hours on duty and 48 hours off duty for Fire Suppression employees is guaranteed to be continued for the term of this CBA and cannot be unilaterally changed.

I must agree with the Union's position. The first two sentences of Section 22.1 clearly establishes that the schedule for Fire Suppression employees shall be continued as currently established for the duration of the CBA. This means they will work 24 hours on duty and 48 hours off duty except that every fourteenth shift will be scheduled off in order to provide an average work week of 52 hours. Thus the consultation language prior to implementation of any new work schedule could only apply to non-Fire Suppression employees whose work hours and work week are subject to determination by the Fire Chief.

The language of Section 22.1 is specific language regarding the work schedules of Fire Department bargaining unit employees and it would be controlling over general language contained in the Management Rights article. Any unilateral change in the work schedule of Fire Suppression employees would be a violation of Section 22.1.