

Clerks

Smiths to Union
5/10/2018
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May 3, 2018

Smith's Food & Drug Centers, Inc.

To

UFCW Local 1564

New Mexico Clerks Agreement(s)

Smith's Food and Drug Centers, Inc. ("Smith's") makes the following proposals for new collective bargaining agreements to UFCW Local 1564. Such proposed new Agreement(s) shall be for the various New Mexico Clerks Bargaining Units and shall contain the provisions of the terminating collective bargaining agreement for such bargaining unit as modified below. Smith's reserves the right to add to, delete from, amend, correct, modify, or withdraw any of the proposals contained herein for all bargaining units or for one or more specific bargaining units, at any time throughout the course of these negotiations. The withdrawal of any proposal in these negotiations shall not be used as evidence against the proponent in any arbitration or other proceeding.

1. **Section 1 – Recognition of the Union – Subsection 1.1 – Bargaining Unit** – Update the list of exclusions in subsection 1.1 as follows:

Delete first Sentence of Second Paragraph (beginning with "In addition to stores....").

2. **Subsection 1.4** – Delete Subsection.

3. **Section 2 – Employment Procedures – Subsection 2.4 – Credit for Prior Experience** – Modify as follows:

Update to reflect Kroger Experience Credit project.

4. **Section 4 – Discharge and Discrimination – Subsection 4.3 – Warning Letters** – Modify 4.3(c) as follows: "fourteen (14) days from the date of discovery by the Company's District personnel."

5. **Section 5 – Contract Enforcement – Subsection 5.4 – Payroll Records**

Delete and replace with "An authorized employee of the Union Local may review the Employer's payroll records of employees covered by this Agreement if necessary to properly investigate a specifically identified and properly filed grievance. Any such request must be timely made and any such review will take place only upon mutual agreement of the parties within a reasonable time of such request.

6. **Section 6 – Rights of Management – Subsection 6.1** – Modify as follows:

Add the word "assign" following the word layoff ("layoff, assign, or relieve...")

7. **Section 7 – Union Affairs – 7.2 – Store Visitation**

Add the following sentence to the end of the paragraph: Violations of this provision, including the failure of the Union representative to timely and properly notify the manager or person in charge, will result in the revocation of the Union's right to visit the store for 90 days.

8. Section 7 – Union Affairs – Subsection 7.5 – Union Buttons – Modify as follows:

Delete “their Union Buttons” and replace with “one (small) Union Button.”

9. Section 8 – Working Hours and Overtime – Subsection 8.7 – Sunday Work –

Update to reflect the use of the electronic scheduler:

Modify first sentence to read: “Employees who want to work on Sundays shall so indicate in the store’s computerized scheduler”

Delete subparagraph (a)

In subparagraph (b) change the phrase “from that list” to “from those employees that indicated their availability in the computerized scheduler”. Modify second sentence to read: “Employees who fail to work a Sunday which they are scheduled without good cause shall have their availability changed to reflect that they are unavailable to work on Sundays and will forfeit any right to work on Sundays for a period of three months, unless such rights are earlier restored upon the consent of the store director.”

Modify subparagraph (c) by changing “signed the quarterly Sunday Roster” to “indicated their availability in the computerized scheduler to work on Sunday”

10. Section 8 – Working Hours and Overtime -- Subsection 8.10 – Store Meetings --

Clarify Subsection by adding following clause to end of second sentence: “... and the Employer shall only be obligated to pay employees for the time actually spent in such meeting.”

11. Section 9 – Seniority – Subsection 9.4 – Loss of Seniority – Modify subsection (c) by changing 365 days to 180 days.

12. Section 9 – Seniority -- Subsection 9.5 – Delete last sentence of subsection.

13. Section 9 – Seniority -- Subsection 9.6 – Hours Maximizing –

Add the following to the end of the first sentence of (c): “and the employee is available to work a full time schedule.”

14. Section 9 – Seniority – Subsection 9.7 – Call-in Roster – Add “or by a member of management” at end of subsection (d).

15. Section 11.4 – (Electronic Provision of Wage Statement)

Delete first two sentences.

16. Section 11 – Wage Rates and Classifications – Subsection 11.8 – Penalties for Abuse of Restrictions and Section 15 – Grievance and Arbitration – Subsection 15.7 (new) – Delete Subsection 11.8. Add to Section 15 a new subsection 15.7 to read:

15.7. Remedies for Errors: If an error is made by management in the application of the provisions of this Agreement resulting in a lost work opportunity for the aggrieved employee such as scheduling and assignment of hours disputes, classification issues, and work jurisdiction matters and the affected employee immediately files a grievance, the employee shall be made whole by being permitted to work the number of hours lost. Such hours shall be above and beyond the posted schedule. The employee shall advise management anytime after the next schedule is finalized for the workweek of their desire to exercise their right to work the hours due during the workweek on the date and time determined by the employee. An aggrieved employee may not demand such remedy on an overtime or premium-pay basis if the alleged violation occurred on what would have been a straight-time day for such employee. The employee must exercise this right to work within four (4) weeks of the settlement of error with the employee or such right shall be forfeited and no further remedy shall be required.

Notwithstanding the foregoing, no remedy shall not apply in the event of an emergency or act of God. Such emergency or act of God shall be defined as circumstances beyond the control of store management, including but not limited to bad weather, accident, illness, etc. To the extent possible, the Company will attempt to call in unscheduled employees in accordance with Section 9.7 during an emergency situation.

17. Section 11 – Wage Rates and Classifications – Subsection 11.10 – Work Between Classifications – Add the following to current subsection 11.10 entitled “Work Between Classifications”:

It is understood that employees may perform incidental work in another classification without violating this Agreement.

Production Bakers and Cake Decorators (including non-Retail Clerks bargaining unit Production Bakers and Cake Decorators) may perform Bakery Clerk work, provided that such employees do not replace a scheduled Bakery Clerk shift for a current Bakery Clerk.

18. Section 11 – Wage Rates and Classifications/Appendix “A” – (New) New Classifications – Open

19. Section 11 – Wage Rates and Classifications – Subsection 11.2 (b) Night Work Premium

Add the following as the last sentence of the paragraph: All freight crew employees shall receive a night premium wage, in addition to their regular hourly rate, for all time worked between the hours of 10:00 p.m. and 6:00 a.m. at one dollar (\$1.00) per hour.

20. Section 11 – Wage Rates and Classifications – Subsection 11.6 and 11.8

Section 11.6 - Add the following as a new last paragraph: It is further agreed that if Courtesy Clerks are permitted to perform duties regularly and normally performed by Clerks, they shall be paid for such work at the Apprentice Clerks' scales. Courtesy Clerks shall not be scheduled on a Store's weekly Work Schedule to perform Clerk duties. Nothing contained herein shall prevent the Employer from assigning Courtesy Clerks to Clerk duties on a day-to-day basis in accordance with its manning and operational requirements and the provisions of this Section. Courtesy Clerks that are promoted to a Clerks classification of employment shall be credited with all of their hours that are worked and compensated for at the Apprentice rate of pay for the involved classification of employment subsequent to the "Ratification" of this Agreement for the purposes of determining both their placement in the Apprenticeship Progression for the involved classification and their subsequent progression thereafter.

Section 11.8 – Delete

21. Section 12. General Provisions

Add the following as a new **Section 12.8: Favored Nations Clause**

In the event the Union negotiates an agreement with a comparable retail food employer that is meaningfully more favorable in its overall application to such retail food employer than this Agreement, the Employer signatory to this Agreement may have its contract modified accordingly if the contract deviations apply.

If the Union should negotiate an agreement or an extension with a comparable food employer who presently is doing business in the area, which agreement or extension has an expiration date different from that contained herein, this Agreement may, at the Employer's option, be altered to conform with that different expiration date. If that option is exercised, all other terms of this Agreement shall remain in full force and effect.

22. Section 13 – Holidays – Subsections 13.8/13.9 – Sunday and Holiday Work –
In (c), replace thirty-two (32) with forty (40).

23. Section 15 – Grievance and Arbitration – Subsection 15.2 (a)

In the first sentence, change fifteen (15) to ten (10).

24. Section 20 – Pension

Pension benefits are provided by the Desert States Employers and UFCW Unions Pension Trust Fund pursuant to the terms and conditions of the parties prior labor agreements and the Employer's current labor agreement with UFCW Local 99.

25. Section 28 – Term of Agreement – June 10, 2018 through June 12, 2021.

26. Appendix "A" - Open

27. Letters of Agreement - Retain upon mutual agreement

Checks

*Smith's to Union
10/2018
11:38 PM*

Changes to Appendix "A"

Albuquerque/Bernalillo County

Move Starting Rates of pay for all classifications – including Courtesy Clerk -- to \$9.00/hr.

(Company intends to provide specific proposals for adjusting the progressions in classifications where the new minimum exceeds one or more current steps.)

Clerk Employees hired on or after June 1, 2005

Create an APC classification that combines Non-Food Clerk classifications, Food Clerk Classifications, and Service Deli Clerk Classifications:

APC			
First Sunday Following 30 Days after Ratification		Year 2	Year 3
Step 1 (1040 hrs)	9.00	9.00	9.00
Step 2 (1040 hrs)	9.50	9.50	9.50
Step 3 (1040 hrs)	10.00	10.00	10.00
Step 4 (1040 hrs)	10.50	10.50	10.50
Step 5 (1040 hrs)	11.00	11.00	11.00
Step 6 (1200 hrs)	11.50	11.50	11.50
Step 7(1200 hrs)	12.00	12.00	12.00
Step 8 (1200 hrs)	12.50	12.50	12.50
Step 9 (1200 hrs)	13.00	13.00	13.00
Step 10		13.50	13.50
Journeyperson			14.00

(Company proposals on mapping current rates over will be forthcoming).

Create New Asst. Mgr. Positions:

	Year 1	Year 2	Year 3
Asst. Service Deli Manager	14.00	14.50	15.00
Asst. Produce Manager	14.00	14.50	15.00

Other Areas

Company intends to provide specific proposals in alignment with the above that take into account the unique contract rates of each area.