

How the court kept national parks open for Sukkot

By Steve Adler



A girl cools off in the fountain of Teddy Park, developed by the Jerusalem Foundation in memory of the city's long-serving mayor, Teddy Kollek.

THE SUKKOT holiday was to begin in the evening. I was in the court that morning while my family, together with most Israelis, were preparing to enjoy the week-long holiday. That morning the Israel Nature and Parks Authority (INPA) filed an urgent petition to prevent a strike that would close all parks and nature preserves during the Sukkot holiday. I immediately summoned management and union representatives to the court at noon for a preliminary hearing, and within a few minutes, senior management and union representatives and their attorneys were in my chambers. They had come to the court together, hoping for an immediate solution to their problem.

The management CEO explained that a 1998 law created the INPA by combining the National Parks Authority and the Nature Reserves Authority. The law was heavily contested, passed without adequate preparation, and did not relate to the working conditions set by collective agreements. In absence of a law or INPA collective agreement, workers continued to receive their previous conditions. Since working conditions at the two previous authorities were not equal, the result was that workers doing the same job received different salaries.

Management, the union, and the Treasury were negotiating, but no agreement was being reached. Management representatives agreed with the union that the current situation was unfair, and a new collective agreement was necessary. However, they opposed a strike since 20% of parks attendance and INPA income was on the Sukkot holiday, and a strike would cause great grief to the public.

The union explained that the Treasury representative was unwilling to reach a reasonable agreement, and they had already appeared at Knesset committee meetings, spoke to minis-

ters, and done all possible to further the negotiations, but without success. They were unhappy about closing the parks, but felt that it was their only option. Key government officials were already celebrating Sukkot abroad and could not be reached.

This was a classic lose-lose situation: an injunction would not further negotiations meant to correct an unfair situation, and rejecting the injunction request would ruin the holiday plans of many Israelis, and cause a public outcry and possible damage to the parks.

Suddenly, I thought of a previously unknown unique solution. I asked the parties if they would agree to a “virtual strike”: the parks will be open, workers will continue their regular jobs, but all income from entrance fees would be held in trust, and released to the Authority when the court held that there was serious progress in the negotiations. They all agreed to the proposal. During Sukkot the parks were open, workers, management and the public were able to celebrate the holiday outdoors, and a large joint bank account accumulated. Treasury and State Attorney representatives did not object during the holiday, but afterward petitioned the court to release to the INPA the money in the joint bank account.

I conducted another preliminary hearing, with management, union, Treasury and State Attorney representatives present. The Parks Authority needed the frozen funds for the general operating budget, and to pay workers' salaries and suppliers' bills. Treasury representatives agreed to continue the negotiations, and they all agreed that the funds would be released with negotiations continuing, with the parties reporting to me every week.

The parties appeared in my chambers every week, reported that negotiations were progress-

ing, and then reached a partial agreement. At this point, my schedule did not permit me to continue assisting them to reach an agreement, so I asked Prof. Avraham (Rami) Freedman to mediate. Freedman was a public representative at the National Court, one of Israel's leading experts on labor relations, and he undertook this challenge without requesting a fee. Within a few months an agreement was signed.

Shortly afterward, all union, management and Treasury representatives involved in the negotiations asked to meet at the court in order to thank me. Never had parties asked to thank me, but I agreed and asked that Rami Freedman also be present. The meeting was emotional. They expressed appreciation for the court and Rami's assistance, complemented each other, and asked forgiveness from the Treasury representative for insults during the negotiations. His reply was that it's all part of the game, not personal, and was glad a fair agreement was reached and Israelis were able to celebrate Sukkot in the national parks.

The virtual strike was a subject of much interest and academic articles. It achieved the same result as a regular strike by furthering collective negotiations, but without harming the public or the workplace. The union-employer relationship is ongoing and requires good faith and fairness to succeed. This was especially important for the Parks Authority, as a new entity, and the successful resolution of the dispute created a positive labor relations pattern.

In today's complex global economy, alternative settlement methods for collective disputes must be developed so that a strike is the last option. ■

The writer is a retired president of the National Labor Court.