

65 FLRA No. 41

INTERNATIONAL ASSOCIATION
OF MACHINISTS AND
AEROSPACE WORKERS
NIPSIC LODGE 282
(Union)

and

UNITED STATES
DEPARTMENT OF THE NAVY
NAVAL FACILITIES ENGINEERING
COMMAND NORTHWEST
(Agency)

0-AR-4680

—
DECISION

October 28, 2010

Before the Authority: Carol Waller Pope, Chairman,
and Thomas M. Beck and Ernest DuBester, Members

This matter is before the Authority on exceptions to an award of Arbitrator Kathryn T. Whalen filed by the Union under § 7122(a) of the Federal Service Labor-Management Relations Statute (the Statute) and part 2425 of the Authority's Regulations. The Agency filed an opposition to the Union's exceptions.*

Under § 7122(a) of the Statute, an award is deficient if it is contrary to any law, rule, or regulation, or it is deficient on other grounds similar to those applied by Federal courts in private sector labor-management relations. Upon careful consideration of the entire record in this case and

Authority precedent, the Authority concludes that the award is not deficient on the grounds raised in the exceptions and set forth in § 7122(a). *See U.S. Dep't of the Navy, Naval Base, Norfolk, Va.*, 51 FLRA 305, 307-08 (1995) (award not deficient on ground that arbitrator exceeded his or her authority where excepting party does not establish that arbitrator failed to resolve an issue submitted to arbitration, disregarded specific limitations on his authority, or awarded relief to persons who were not encompassed within the grievance); *Prof'l Airways Sys. Specialists, Dist. No. 1, MEBA/NMU (AFL-CIO)*, 48 FLRA 764, 768-69 (1993) (award not deficient as contrary to law where excepting party fails to establish that the award is in any manner contrary to the law, rule, or regulation on which the party relies); *U.S. Dep't of the Air Force, Lowry Air Force Base, Denver, Colo.*, 48 FLRA 589, 593-94 (1993) (award not deficient as based on a nonfact where excepting party either challenges a factual matter that the parties disputed at arbitration or fails to demonstrate that a central fact underlying the award is clearly erroneous, but for which a different result would have been reached by the arbitrator); *U.S. Dep't of Labor (OSHA)*, 34 FLRA 573, 575 (1990) (award not deficient as failing to draw its essence from the parties' collective bargaining agreement where excepting party fails to establish that the award: cannot in any rational way be derived from the agreement; is so unfounded in reason and fact and so unconnected to the wording and purpose of the agreement as to manifest an infidelity to the obligation of the arbitrator; does not represent a plausible interpretation of the agreement; or evidences a manifest disregard of the agreement).

Accordingly, the Union's exceptions are denied.

* The Agency asserts in its opposition that the exceptions are not properly before the Authority because they were not dated or filed with a statement of service, as required by the Authority's Regulations. Opp'n at 1-2 (citing 5 C.F.R. § 2429.27). However, in response to an order from the Authority, the Union cured these deficiencies. *See* Deficiency Order (Sept. 13, 2010); Union's Cure of Deficiencies (Sept. 27, 2010). Thus, the exceptions are properly before the Authority, and we will consider them. *E.g., U.S. Dep't of Health & Human Servs., Appalachian Lab. for Occupational Safety & Health, Nat'l Inst. for Occupational Safety & Health, Ctrs. for Disease Control & Prevention*, 49 FLRA 1150, 1151 (1994).