

69 FLRA No. 46

NATIONAL TREASURY
EMPLOYEES UNION
CHAPTER 52
(Union)

and

UNITED STATES
DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WAGE & INVESTMENT DIVISION
AUSTIN, TEXAS
(Agency)

0-AR-5174

ORDER DISMISSING EXCEPTIONS

April 19, 2016

Before the Authority: Carol Waller Pope, Chairman, and
Ernest DuBester and Patrick Pizzella, Members

This matter is before the Authority on exceptions to an award of Arbitrator I. B. Helburn filed by the Union under § 7122(a) of the Federal Service Labor-Management Relations Statute¹ and part 2425 of the Authority's Regulations.² The Agency filed an opposition to the Union's exceptions.

We have determined that this case is appropriate for issuance as an expedited, abbreviated decision under § 2425.7 of the Authority's Regulations.³

Sections 2425.4(c) and 2429.5 of the Authority's Regulations bar consideration of the Union's exceptions.⁴ The Union argues that the denial of attorney fees is contrary to the Back Pay Act,⁵ fails to draw its essence from the parties' agreement, and is based on a nonfact because Article 18 of the parties' agreement, incorporating the parties' National Performance Awards Agreement, mandates the payment of performance awards. The Union should have known to raise Article 18 of the parties' agreement before the Arbitrator, but the Union has not demonstrated that it did so. Therefore, we dismiss the exceptions.⁶

Accordingly, we dismiss the Union's exceptions.

¹ 5 U.S.C. § 7122(a).

² 5 C.F.R. pt. 2425.

³ *Id.* § 2425.7 ("Even absent a [party's] request, the Authority may issue expedited, abbreviated decisions in appropriate cases.").

⁴ *Id.* §§ 2425.4(c), 2429.5.

⁵ 5 U.S.C. § 5596.

⁶ *U.S. DHS, U.S. CBP*, 66 FLRA 335, 337-38 (2011) (where a party should have known to make an argument to the arbitrator, but the record does not indicate that the party did so, §§ 2425.4(c) and 2429.5 of the Authority's Regulations bar the party from raising that argument to the Authority).