

**63 FLRA No. 132**

AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES  
LOCAL 607  
COUNCIL OF PRISON LOCALS  
(Union)

and

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF PRISONS  
FEDERAL CORRECTIONAL INSTITUTION  
ELKTON, OHIO

(Agency)

0-AR-4513

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DECISION

June 9, 2009

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Before the Authority: Carol Waller Pope, Chairman and  
Thomas M. Beck, Member

This matter is before the Authority on exceptions to an award of Arbitrator Daniel N. Kosanovich 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 Agency'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 AFGE, Local 1668*, 50 FLRA 124, 126 (1995) (award not deficient on ground that arbitrator failed to provide a fair hearing where excepting party fails to demonstrate that the arbitrator refused to hear or consider pertinent and material evidence, or that other actions in conducting the proceeding so prejudiced a party so as to affect the fairness of the proceeding as a whole); *United States 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 the central fact underlying the award is clearly erroneous, but for which

a different result would have been reached by the arbitrator); *United States 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.