

64 FLRA No. 182

INTERNATIONAL ASSOCIATION
OF FIREFIGHTERS
LOCAL F-25
(Union)

and

UNITED STATES
DEPARTMENT OF THE NAVY
NAVY REGION MID-ATLANTIC
FIRE AND EMERGENCY SERVICES
(Agency)

0-AR-4622
(64 FLRA 867 (2010))

ORDER DENYING MOTION FOR
RECONSIDERATION

June 29, 2010

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

I. Statement of the Case

This matter is before the Authority on the Union's motion for reconsideration of the Authority's decision in *International Association of Firefighters, Local F-25*, 64 FLRA 867 (2010) (*Firefighters*).

The Authority's Regulations permit a party to request reconsideration of an Authority decision where it can establish extraordinary circumstances. 5 C.F.R. § 2429.17. For the reasons that follow, we find that the Union has failed to establish that extraordinary circumstances exist warranting reconsideration of the Authority's decision. Therefore, we deny the Union's motion.

II. Background

In *Firefighters*, as relevant here, the parties disputed whether the grievant was the Attendant-in-Charge (AIC) and, thus, responsible for properly completing a Pre-Hospital Patient Care Report (PPCR). Award at 12-13. The Union argued to the Arbitrator that the grievant transferred his AIC function to another individual and, therefore, the Agency should not have suspended the grievant for

failing to correctly complete the PPCR. *Id.* at 21. The Arbitrator rejected this argument and found, among other things, that the grievant was the AIC at the pertinent time and was correctly charged with submitting an incomplete PPCR. *Id.* at 23. In a decision on exceptions filed by the Union, as relevant here, the Authority denied the Union's nonfact exception that the award was based upon the Arbitrator's erroneous factual finding that the grievant was the AIC. *Firefighters*, 64 FLRA at 867.

III. Union's Position

The Union seeks reconsideration of the Authority's decision on the basis that "the Arbitrator's [a]ward was clearly based on a mistake of fact." Motion at 1. In this regard, the Union reiterates its argument that the Arbitrator's award was based on his erroneous determination that the grievant was the AIC. *Id.* at 2.

IV. Analysis and Conclusions

Section 2429.17 of the Authority's Regulations permits a party who can establish extraordinary circumstances to request reconsideration of an Authority decision. The Authority has repeatedly recognized that a party seeking reconsideration under § 2429.17 bears the heavy burden of establishing that extraordinary circumstances exist to justify this unusual action. *See U.S. Dep't of Transp., FAA, Wash., D.C.*, 63 FLRA 653, 653 (2009). The Authority has identified a limited number of situations in which extraordinary circumstances have been found to exist. These include situations: (1) where an intervening court decision or change in the law affected dispositive issues; (2) where evidence, information, or issues crucial to the decision had not been presented to the Authority; (3) where the Authority erred in its remedial order, process, conclusion of law, or factual finding; and (4) where the moving party has not been given an opportunity to address an issue raised *sua sponte* by the Authority in the decision. *See id.* at 653-54 (citing *U.S. Dep't of the Air Force, 375th Combat Support Group, Scott Air Force Base, Ill.*, 50 FLRA 84, 85-87 (1995)).

The Union seeks reconsideration based on its assertion that the Arbitrator erred in finding that the grievant was the AIC. To the extent that the Union is arguing that the Authority erred in a factual finding, the factual question of whether the grievant was the AIC was clearly disputed by the parties at arbitration, Award at 12-13, and, therefore, the Authority appropriately denied the Union's exception

challenging that factual finding. *See U.S. Dep't of the Air Force, Lowry Air Force Base, Denver, Colo.*, 48 FLRA 589, 593-94 (1993). Moreover, the Union does not assert that any of the remaining bases for granting reconsideration are present. Accordingly, we deny the motion for reconsideration. *See U.S. Dep't of Homeland Sec., U.S. Citizenship & Immigration Servs.*, 64 FLRA 335, 335-36 (2009).

V. Order

The Union's motion for reconsideration is denied.