

67 FLRA No. 104

UNITED STATES
DEPARTMENT OF THE AIR FORCE
AIR FORCE MATERIEL COMMAND
WRIGHT-PATTERSON AIR FORCE BASE, OHIO
(Agency)

and

AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES
COUNCIL 214
(Union)

0-AR-4976

DECISION

April 30, 2014

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

I. Statement of the Case

Arbitrator Peter D. Jason found that the Agency violated the parties' collective-bargaining agreement by discontinuing a program that permitted the use of a controlled-spend-account card for official government travel. The Arbitrator directed reinstatement of the program. The issue before us is whether the award is contrary to certain sections of the Federal Travel Regulation (FTR).¹ Because the FTR prohibits the use of a government-travel card for personal use and the program allows for such use, we find that the award is contrary to the FTR.

II. Background and Arbitrator's Award

The Agency notified the Union that the Air Force was discontinuing its controlled-spend-account-card program (the program) and replacing it with the government-travel-card program that was standard throughout the federal government. Although the Agency offered to bargain about the impact and implementation of the change, the Union refused. Instead, the Union filed a grievance alleging that the Agency's decision to discontinue the program violated Article 22 of the parties' agreement and was a "blatant

repudiation" of that agreement.² The grievance went to arbitration.

The Arbitrator framed the issue as: "Did the Air Force decision to discontinue the [program] for Air Force travel and replace it with a government[-]travel[-]card program[] violate Article 22 of the [parties' agreement]?"³ The program – as set forth in Article 22, Section 22.03(a) of the parties' agreement – provides, in relevant part: "[Controlled-spend-account] features include . . . [t]he recovery of traveler's residual balance (meals and incidental expenses not charged to the [program card]) from the bank via check, electronic funds transfer . . . , ATM/Teller withdrawal . . . , or use of the [program card] as a debit/gift card."⁴ The "residual balance" in Section 22.03(a)(3) is explained in Section 22.03(d): "When a travel voucher is approved, the contracted bank will adjust the [program card] spend limit to the entitlement amount. This will often result in a surplus owed to the employee, since many expenses are commonly paid out of pocket, not [with] the card."⁵

The Arbitrator found that the Agency was bound by Article 22, Section 22.03 and that discontinuation of the program violated the parties' agreement. Accordingly, the Arbitrator directed the Agency to reestablish the program.

The Agency filed exceptions to the Arbitrator's award. The Union did not file an opposition to the Agency's exceptions.

III. Analysis and Conclusions: The award is contrary to law.

The Agency argues that the award is contrary to law.⁶ Specifically, the Agency argues that the program conflicts with the FTR and, therefore, that complying with the Arbitrator's direction to reestablish the program would cause the Agency to violate the law.⁷

The FTR, which the Authority has held is a government-wide regulation,⁸ states that an employee must use his or her travel card "for expenses directly related to . . . official travel"⁹ and that the employee "may not use the . . . travel . . . card for personal reasons while

² Award at 3-4 (quoting the Union's grievance).

³ *Id.* at 7.

⁴ Exceptions, Attach. 5 at 68-69.

⁵ *Id.* at 69.

⁶ Exceptions at 5.

⁷ *Id.* at 5-6.

⁸ *SSA, Office of Disability Adjudication & Review*, 65 FLRA 477, 480 n.12 (2011) (*SSA ODA*R).

⁹ 41 C.F.R. § 301-51.6; *see also id.* § 301-70.706.

¹ 41 C.F.R. §§ 301-1.1 to 304-9.7.

on official travel.”¹⁰ The Agency claims, and there is no dispute, that under Article 22, Section 22.03(a)(3) of the parties’ agreement, employees were permitted to use their program card to spend the residual balance on anything, including personal items not related to official travel.¹¹ Because the award directs the Agency to reinstate the program, the award is contrary to the FTR. Accordingly, we set the award aside as contrary to law.¹²

The Agency further argues that Article 22, Section 22.03 violates 5 U.S.C. § 5701 and 10 U.S.C. § 2784a. The Agency also contends that the Department of Defense Financial Management Regulation, Vol. 9, Chapter 3, section 030210 requires all Agency employees to use the Government Services Administration Smart Pay Program contract for all official business travel¹³ and, therefore, that the Agency has no authority to establish its own travel program.¹⁴ Because we find that the award is contrary to the FTR, we need not address the Agency’s remaining arguments.

IV. Decision

We set aside the award.

¹⁰ *Id.* § 301-51.7; *see also id.* § 301-70.707.

¹¹ Exceptions, Attach. 2 at 4.

¹² *SSA ODAR*, 65 FLRA at 480 n.12 (stating that when an “arbitrator’s award construes an agreement contrary to a government-wide regulation, the award is unenforceable”) (citing *SSA, Office of Disability Adjudication & Review*, 64 FLRA 1000, 1002 n.5 (2010)).

¹³ Exceptions at 6.

¹⁴ *Id.*