65 FLRA No. 20

AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES
COUNCIL 236
(Union)

and

UNITED STATES
GENERAL SERVICES ADMINISTRATION
(Agency)

0-AR-4671

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DECISION

September 21, 2010

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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 Joseph M. Pastore, Jr. 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 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); *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.

[*] To the extent that the Union asserts that managers with "high salaries are able to assign . . . more money into their personal performance awards . . . provided they lower the number of employees receiving bonus money," such assertion was not raised before the Arbitrator, and therefore, is not properly before the Authority under 5 C.F.R. § 2429.5. Exceptions at 3. *See, e.g., AFGE, Local 1633*, 64 FLRA 732, 733 (2010). Accordingly, we dismiss this exception.