

65 FLRA No. 31

AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES
LOCAL 1923
(Union)

and

UNITED STATES
DEPARTMENT OF THE NAVY
NAVAL FACILITIES
ENGINEERING COMMAND
(NAVFAC WASHINGTON)
(Agency)

0-AR-4662

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DECISION

September 30, 2010

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 Paul Greenberg filed by the Union¹ 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.²

1. The exceptions in this case were prepared by the grievant and submitted with the Union's authorization.

2. The Agency filed an opposition to the Union's exceptions. The Authority issued an Order to Show Cause (Order), requiring the Agency to show why its opposition should not be rejected as untimely. Order at 1. In its response, the Agency claims that its opposition should be considered because the copy of the exceptions served on the Agency did not include a statement of service. Agency's Response to Order at 1-3. However, the Agency does not claim that it did not receive the exceptions. Under 5 C.F.R. § 2429.23(b), a waiver of an expired time limit must be based upon a showing of "extraordinary circumstances" justifying the waiver. 5 C.F.R. § 2429.23(b). As the Agency has failed to establish extraordinary circumstances warranting waiving the expired time limit, we will not consider the Agency's opposition. See *U.S. Dep't of Homeland Sec., U.S. Customs & Border Prot.*, 64 FLRA 916, 918-19 (2010) (union's opposition not considered where union failed to

Under § 7122(a) of the Statute, an award is deficient if it is contrary to any law, rule, or regulation, or if 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). *U.S. Dep't of Veterans Affairs, Med. Ctr., N. Chi., Ill.*, 52 FLRA 387, 398 (1996) (award not deficient because of bias on the part of an arbitrator where excepting party fails to demonstrate that the award was procured by improper means, that there was partiality or corruption on the part of the arbitrator, or that the arbitrator engaged in misconduct that prejudiced the rights of the party); *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 a central fact underlying the award is clearly erroneous, but for which a different result would have been reached by the arbitrator).

Accordingly, the exceptions are denied.

establish extraordinary circumstances to excuse the lack of timeliness).

In addition, both parties filed several unsolicited supplemental submissions. Section 2429.26 of the Authority's Regulations requires a party filing a supplemental submission to request permission to file such a submission. 5 C.F.R. § 2429.26. As neither party requested permission to file their respective supplemental submissions, we will not consider them. See, e.g., *AFGE, Local 933*, 65 FLRA 9, 10 (2010) (union's supplemental submission not considered where union did not request permission to file submission).