

63 FLRA No. 139

AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES
LOCAL 1738
(Union)

and

UNITED STATES DEPARTMENT
OF VETERANS AFFAIRS
VETERANS ADMINISTRATION
MEDICAL CENTER
FAYETTEVILLE, NORTH CAROLINA
(Agency)

0-AR-4506

DECISION

June 23, 2009

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

This matter is before the Authority on an exception to an award of Arbitrator Elizabeth C. Wesman 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 exception.¹

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 ground raised in the exception and set forth in § 7122(a). *See United States Dep't of the Air Force, Lowry Air Force Base, Denver, Colo.*, 48 FLRA 589, 593-94 (1993) (award not deficient 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).

Accordingly, the Union's exception is denied.

1. In addition to its opposition, the Agency filed a motion to dismiss the Union's exception. The Authority's Regulations do not provide for the filing of supplemental submissions. As the Agency has failed to request leave under § 2429.26 of the Authority's Regulations to file this supplemental submission, we do not consider the motion. *See, e.g., Nat'l Union of Labor Investigators*, 46 FLRA 1311, 1311 n.1 (1993); 5 C.F.R. § 2429.26 ("The Authority . . . may in [its] discretion grant leave to file other documents as they deem appropriate.").