67 FLRA No. 64

American Federation of Government Employees Local 1945

(Union)

and

United States Department of the Army Anniston Army Depot
Anniston, Alabama

(Agency)

0-AR-4958

Decision

February 18, 2014

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

This matter is before the Authority on an
exception to an award of Arbitrator George R. Shea, 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 Union
requests an expedited, abbreviated decision under
§ 2425.7 of the Authority’s Regulations.1 Although the
Agency filed an opposition to the Union’s exception, the
Agency does not oppose the Union’s request under
§ 2425.7. Upon full consideration of the circumstances
of this case – including the case’s complexity, potential
for precedential value, and similarity to other, fully
detailed decisions involving the same or similar
issues – we grant the Union’s request.

As an initial matter, §§ 2425.4(c) and 2429.5 of
the Authority’s Regulations bar consideration of the
Union’s argument that the Arbitrator’s interpretation of
“employees” in the first sentence of Article 8, Section 1
of the parties’ collective-bargaining agreement to include
first-line supervisors fails to draw its essence from the
agreement.2 Because the Agency argued in favor of this
very interpretation before the Arbitrator, the Union
should have known to raise any argument disputing the
Agency’s interpretation before the Arbitrator. As the
record does not show that the Union did so, we decline to
consider this argument.

Regarding the Union’s remaining arguments,
under § 7122(a) of the Statute, an award is deficient if it is
counter 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, we conclude that the award
is not deficient on the grounds raised in the exception
and set forth in § 7122(a).3

Accordingly, we dismiss, in part, and deny, in
part, the Union’s exception.


1 Section 2425.7 provides, in pertinent part:

Where an arbitration matter before the
Authority does not involve allegations of
unfair labor practices under 5 U.S.C.
§ 7116, and the excepting party wishes to
receive an expedited Authority decision, the
excepting party may request that the
Authority issue a decision that resolves the
parties’ arguments without a full
explanation of the background, arbitration
award, parties’ arguments, and analysis of
those arguments. In determining whether
such an abbreviated decision is appropriate,
the Authority will consider all of the
circumstances of the case, including, but not
limited to: whether any opposition filed
under § 2452.3 . . . objects to issuance of
such a decision and, if so, the reasons for
such an objection; and the case’s
complexity, potential for precedential value,
and similarity to other, fully detailed

2 5 C.F.R. § 2425.7.

3 Id. §§ 2425.4(c), 2429.5.

3 U.S. Dep’t of the Army, Army Tank-Automotive Command, 67 FLRA 14, 15 & n.3, 16-17 (2012) (citing U.S. Dep’t of the
Army, U.S. Army Aberdeen Proving Ground, Aberdeen Proving
Ground, Md., 49 FLRA 950, 953 (1994)) (where a collective-bargaining agreement incorporates an agency
regulation with which an arbitration award is alleged to conflict,
the Authority evaluates the alleged conflict using the essence
standard); U.S. DOL (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).