

**70 FLRA No. 91**

NATIONAL ASSOCIATION  
OF INDEPENDENT LABOR  
LOCAL 5  
(Union)

and

UNITED STATES  
DEPARTMENT OF DEFENSE  
DEFENSE LOGISTICS AGENCY  
DISTRIBUTION DEPOT  
RED RIVER, TEXAS  
(Agency)

0-AR-5271

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DECISION

March 26, 2018

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Before the Authority: Colleen Duffy Kiko, Chairman,  
and Ernest DuBester and James T. Abbott, Members

This matter is before the Authority on exceptions to an award of Arbitrator Vicki Peterson Cohen filed by the Union under § 7122(a) of the Federal Service Labor-Management Relations Statute<sup>1</sup> and part 2425 of the Authority's Regulations.<sup>2</sup> The Agency filed an opposition to the Union's exceptions.

We have determined that this case is appropriate for issuance as an expedited, abbreviated decision under § 2425.7 of the Authority's Regulations.<sup>3</sup>

The Union challenges the Arbitrator's procedural-arbitrability determination on nonfact, essence, contrary-to-law, and exceeds-authority grounds. The Union asks the Authority to find that the Arbitrator exceeded her authority when she determined that the Union's grievance was untimely, but the Union does not support this argument. Therefore, we deny the

exceeds-authority exception under § 2425.6(e)(1) of the Authority's Regulations.<sup>4</sup>

As for the Union's remaining nonfact, essence, and contrary-to-law exceptions, 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 exceptions and set forth in § 7122(a).<sup>5</sup>

Accordingly, we deny the Union's exceptions.

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<sup>1</sup> 5 U.S.C. § 7122(a).

<sup>2</sup> 5 C.F.R. pt. 2425.

<sup>3</sup> *Id.* § 2425.7 ("Even absent a [party's] request, the Authority may issue expedited, abbreviated decisions in appropriate cases.").

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<sup>4</sup> 5 C.F.R. § 2425.6(e)(1); *see also Fraternal Order of Police, Pentagon Police Labor Comm.*, 65 FLRA 781, 784 (2011) (exceptions are subject to denial under § 2425.6(e)(1) of the Authority's Regulations if they fail to support arguments that raise recognized grounds for review).

<sup>5</sup> *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 the arbitrator would have reached a different result); *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 purposes 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).