

64 FLRA No. 36

SPORT AIR TRAFFIC
CONTROLLERS ORGANIZATION
(Union)

and

UNITED STATES
DEPARTMENT OF THE AIR FORCE
AIR FORCE FLIGHT TEST CENTER
EDWARDS AIR FORCE BASE, CALIFORNIA
(Agency)

0-AR-4573

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DECISION

November 23, 2009

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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 John D. Perone 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 United States Dep't of the Navy, Naval Base, Norfolk, Va.*, 51 FLRA 305, 307-08 (1995) (award not deficient on ground that arbitrator exceeded his authority where excepting party does not establish that arbitrator failed to resolve an issue submitted to arbitration, disregarded specific limitations on his authority, or awarded relief to persons who were not encompassed within the grievance); *AFGE, Local 2921*, 50 FLRA 184, 185-86 (1995) (arbitrator's determination of the procedural arbitrability of a grievance is subject to challenge only on grounds other than those that directly challenge the procedural arbitrability determination); *AFGE, Local 1668*, 50 FLRA 124, 126 (1995) (award not deficient on ground that arbitrator failed to provide a fair hearing where excepting party fails to demonstrate that the arbi-

trator refused to hear or consider pertinent and material evidence, or that other actions in conducting the proceeding so prejudiced a party so as to affect the fairness of the proceeding as a whole); *Prof'l Airways Sys. Specialists, Dist. No. 1, MEBA/NMU (AFL-CIO)*, 48 FLRA 764, 768-69 (1993) (award not deficient as contrary to law where excepting party fails to establish that the award is in any manner contrary to the law, rule, or regulation on which the party relies); *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); *United States 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.