GOVERNMENT OF THE DISTRICT OF COLUMBIA
PUBLIC EMPLOYEE RELATIONS BOARD

In the Matter of:	
DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS,	PERB Case No. 02-A-03
	Opinion No. 718
Petitioner,	
and	
DOCTORS COUNCIL OF THE DISTRICT OF COLUMBIA,	
Respondent.	

DECISION AND ORDER

The District of Columbia Department of Corrections ("DOC", "Petitioner" or "Agency") filed an Arbitration Review Request ("Request"). DOC seeks review of an Arbitration Award (Award) which found that the Agency violated the parties' collective bargaining agreement by contracting out work that was formerly performed by bargaining unit members. DOC contends that the: (1) Award is contrary to law and (2) Arbitrator was without authority to grant the Award. (Request at p. 2). The Doctors Council of the District of Columbia ("Doctors Council" or "Union") opposes the Request.

The issue before the Board is whether "the Award on its face is contrary to law or public policy" or whether "the Arbitrator was without or exceeded his or her jurisdiction..." D.C. Code §1-605.02(6) (2001 ed.).[1] Upon consideration of this Request, we find that DOC has not established a statutory basis for review. Therefore, pursuant to Board Rule 538.4, DOC's request for review is denied.

[1]Throughout this Opinion, all references to the D.C. Code refer to the 2001 edition.

DOC entered into a contract extension with the Center for Correctional Health and Policy Studies, Inc. ("CCHPS") to provide health care and mental health care services at the District of Columbia Central Detention Facility without consulting the Union, as required by Article 30 of the parties' collective bargaining agreement. The contract was originally entered into by the Receiver for the DOC (while DOC was under Receivership) and CCHPS. After the Receivership ended in September 2000, DOC extended the contract. DOC's actions formed the basis of the Doctors Council's grievance. The grievance went to arbitration and the Arbitrator found that DOC had an obligation to comply with Article 30 of the parties' collective bargaining agreement (CBA) before extending the contract which had been entered into between the Receiver and CCHPS. In making her decision, the Arbitrator determined that pursuant to Article 30 of the CBA, DOC had an obligation to notify and consult with the Union prior to contracting out bargaining unit work.[2] The Arbitrator also found that DOC violated Article 2 of the CBA by failing to recognize the Union as the exclusive bargaining agent.

DOC takes issue with the Arbitrator's Award. DOC claims that the award is: (1) contrary to law and (2) that the Arbitrator exceeded her jurisdiction. Specifically, DOC makes a procedural argument that the Arbitrator did not have jurisdiction to hear the claim because of a court order issued during DOC's Receivership which barred arbitrations. Also, DOC asserts that the Arbitrator exceeded her authority by making a determination regarding the scope of the bargaining unit and the existence of bargaining unit employees.[3] In addition, DOC contends that the Arbitrator violated the law by misinterpreting and disturbing several orders of the Federal Court which placed DOC under Receivership. Furthermore, DOC claims that it had the right to contract out pursuant to the management's rights provision contained in the parties' CBA. Finally, DOC argues that the Arbitrator erred in finding that the contracting out action was improper.[4]

The Doctors Council opposes the Request. In addition, the Doctors Council claims that the

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[2]In making her decision, the Arbitrator found that although the Receivership had ended, the collective bargaining unit had not been modified or its representative decertified; therefore, pursuant to Article 30 of the CBA, DOC still had an obligation to consult with the Union prior to contracting out.

[3]Specifically, DOC argues that since there were no bargaining unit employees at DOC, the CBA did not apply and they did not have to bargain with the Union prior to contracting out.

[4]DOC argues that the contracting out action was justified because the original Receivership Order mandated that it maintain the same level of services that it did while under the Receivership. Furthermore, DOC claims that the work which they contract out was superior to that performed by bargaining unit workers. The Arbitrator concluded that there was scant evidence that the work performed pursuant to the CCHPS contract was superior to the work performed prior to the contract nor was there a finding that the quality of work would deteriorate if the work was returned to the bargaining unit members. (Award at pg. 9).

Request was untimely.[5]

In light of the above, we find that DOC's asserted grounds for review only involves a disagreement with the Arbitrator's interpretation of the parties' collective bargaining agreement and orders related to the receivership. Moreover, DOC merely requests that we adopt its interpretation of the collective bargaining agreement, the Receivership Order and other related court orders.

The Board has held that by submitting a matter to arbitration, "the parties agree to be bound by the Arbitrator's interpretation of the parties' agreement, related rules and regulations, as well as the evidentiary findings and conclusions on which the decision is based." MPD v. FOP/MPD Labor Committee, 47 DCR 7217, Slip Op. No. 633, PERB Case No. 00-A-04 (2000). Moreover, the Board will not substitute its own interpretation or that of the Agency for that of the duly designated Arbitrator. Id. Furthermore, we have held that a mere disagreement with the arbitrator's interpretation does not make the award contrary to law and public policy. AFGE, Local 1975 and Department of Public Works, 48 DCR 10955, Slip Op. No. 413, PERB Case No. 95-A-02 (2001).

In addition, we have held that "to set aside an award as contrary to law and public policy, the Petitioner must present applicable law and definite public policy that mandates that the Arbitrator arrive at a different result." MPD v. FOP/MPD Labor Committee, 47 DCR 7217, Slip Op. No. 633, PERB Case No. 00-A-04 (2000). We find that DOC has failed to point to any clear law or public policy which mandates that the Arbitrator arrive at a different result. Therefore, we cannot reverse the Arbitrator's Award on this basis.

Pursuant to D.C. Code §1-605.02(6), we find that the Arbitrator's findings are based on a thorough analysis and cannot be said to be contrary to law. In the present case, DOC merely disagrees with the Arbitrator's findings and the relief granted.[6] This is not a sufficient basis for concluding that the Arbitrator has exceeded her authority or the Award is contrary to law. Therefore, we find that no statutory basis exists for setting aside the Award. As a result, DOC's

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[5]The Board finds that this procedural argument lacks merit. Specifically, the original filing in this case was deficient; however, DOC cured the filing deficiencies within the applicable time period. The Doctors Council also argued that DOC did not provide six (6) copies as required by the Board's Rules. The Board has noted that its Rules should be applied liberally. See, American Federation of State, County and Municipal Employees, Council 20, Local 1959 and D.C. Board of Education, 34 DCR 3623, Slip Op. No. 159, PERB Case No. 85-N-01 (1987).

[6]We have held that a disagreement with the arbitrator's findings is not a sufficient basis for concluding that an Award is contrary to law or public policy or that the arbitrator exceeded his/her jurisdiction. Metropolitan Police Department and Fraternal Order of Police/Metropolitan Police Department Labor Committee, 31 DCR 4159, Slip Op. No. 85, PERB Case No. 84-A-05 (1984).

Arbitration Review Request is denied.

ORDER

IT IS HEREBY ORDERED THAT:

1. The Arbitration Review Request is denied.

2. Pursuant to Board Rule 559.1, this Decision and Order shall be final upon issuance.

BY ORDER OF THE PUBLIC EMPLOYEE RELATIONS BOARD
Washington, D.C.

July 1, 2003