

**In the Matter of Arbitration Between:**

Federal Bureau of Prisons )  
Federal Correctional Complex, )  
Forrest City, Arkansas )  
 )  
Agency/Employer )  
 )  
and )  
 )  
Council of Prison Locals, )  
American Federation of Government )  
Employees, AFL-CIO )  
Local 922 )  
 )  
Union )  
 )

FMCS Case No.: 10-02378

**ORDER DENYING AGENCY'S MOTION TO RECONSIDER AND MODIFY AWARD**

The hearing in this matter was held in Forrest City, Arkansas, on June 24, 2010. The evidentiary record was closed on August 19, 2010, upon receipt of the parties' post-hearing briefs. The Union thereafter submitted a reference to a recent decision of the Merit Systems Protection Board (MSPB), and the undersigned permitted the Agency to submit a supplemental closing argument in response to the Union's submission. After considering all the evidence and post-hearing submissions, the undersigned issued an Opinion and Award on September 17, 2010. At the Agency's request the award was transmitted to counsel for both parties by Federal Express. The Agency received the award on September 20, 2010.


On October 22, 2010, Counsel for the Agency submitted the Agency's Motion to Reconsider and Modify Award. This document was an attachment to an electronic mail message sent to the undersigned, with copies to Counsel for the Union and the Local Union President, who had also entered an appearance for the Union. The Union responded, opposing the motion.

The Agency states that its Motion to Reconsider and Modify Award was "...filed pursuant to 5 CFR §1201.114(d), made applicable to reconsideration of arbitration decisions which are treated as initial decisions." The Agency's reliance on §1201.114(d) is misplaced, however, as that section addresses the procedures for filing petitions and cross petitions for review of initial decisions. Nothing in that section or elsewhere in 5 CFR §1201 can be read as authorizing one party to petition an arbitrator to reconsider an award.

The Code of Professional Responsibility for Arbitrators of Labor-Management Disputes, Rule 6 D 1, provides that no clarification or interpretation of an arbitrator's award is permissible without the consent of both parties. The courts have consistently held that an arbitrator's authority and jurisdiction over a case ceases when the final award has been rendered. This includes cases in the federal sector. See, for example, *Devine v. White*, 697 F.2d 421 (D.C. Cir. 1983), ¶¶ 22 – 24, and cases cited therein.

The award issued in this case on September 17, 2010, was a final and binding award under the provisions of Article 32, Section h, of the Master Agreement between the parties. The Agency's Motion presents no new evidence or arguments that were not or could not have been made either at the hearing or in the multiple post-hearing submissions in this matter. Absent a joint request from the parties, the undersigned has no authority to reconsider the award. Accordingly, the Agency's Motion to Reconsider and Modify Award is denied.

Issued at Fort Worth, Texas, October 27, 2010.

  
Michael B. McReynolds  
Arbitrator