IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION

UNITED MINE WORKERS OF AMERICA, ETC.,	)	
	)	Case No. 1:00CV00078
Plaintiff,	)	
	)	**OPINION**
v.	)	
	)	By: James P. Jones
DICKENSON COUNTY MEDICAL CENTER,	)	United States District Judge
	)	
Defendant.	)	

In this action seeking enforcement of an arbitration award under the Labor Management Relations Act, I remand the case to the arbitrator for clarification as to the scope of the remedy imposed by his decision.

I

This case was brought by the United Mine Workers of America, District 20, Subdistrict 28 ("Union") pursuant to section 301 of the Labor Management Relations Act, 28 U.S.C.A. § 185 (West 1998), seeking to enforce an arbitration award against the Dickenson County Medical Center ("Company"). The Company counterclaimed to have the arbitration award set aside. The Union is the certified collective bargaining agent for the Company's hourly paid healthcare employees. For several years, the

Union and the Company have operated under a series of collective bargaining agreements that govern the wages, hours, and working conditions of the employees. Pertinent to this case are two recent agreements, the first of which became effective on April 28, 1997 ("the 1997 Agreement"). The 1997 Agreement was scheduled to expire by its terms on July 1, 1998, but continued unchanged for an additional twelve months. In April 1999, negotiations began between the parties for a new agreement. The 1997 Agreement expired on July 1, 1999, with no new agreement in place. In September 1999, the Union ratified the Company's final contract offer, forming a new collective bargaining agreement effective September 10, 1999 ("the 1999 Agreement").

In the interim between the expiration of the 1997 Agreement on July 1, 1999, and the effective date of the 1999 Agreement on September 10, 1999, the Union filed a grievance which stated the following:

> The company is in violation of the spirit of the wage agreement including but not limited to Article 23, Schedule A and any other article, paragraph or provision from the current wage agreement.
>
> The company has unilaterally changed the terms and conditions of the Personal Care Aide job classifications in Home Health. We requested to be reclassified into the proper job classification and be given credit for all service years in that classification and any other relief that may be proper.

(Compl. Ex. 3 & Ex. 4 at 1.) The grievance related to the classification of Personal

Care Aides ("PCAs") in pay level grade 1, in contrast to Home Health Aides ("HHAs"), who were classified in pay level grade 3. The Union asserted that the qualifications and job responsibilities of PCAs and HHAs were substantially the same, and therefore PCAs should be re-classified in grade 3. Because no agreement was in place when the grievance was filed, the parties drafted a letter of understanding which provided for the grievance and arbitration provisions of the 1997 Agreement to govern any grievances filed during the interim period. (Compl. Ex. 2.)

The grievance proceeded to arbitration, resulting in an arbitrator's award on March 29, 2000. (Arbitrator's Decision, Compl. Ex. 4, hereinafter, "Arb. Dec.") The arbitrator identified two issues to be determined: (1) whether the grievance was arbitrable, and (2) whether PCAs were doing the same work as HHAs. (Arb. Dec. at 1.) As to the first issue, the arbitrator disagreed with the Company's contentions that the grievance was untimely filed, noting that the Company had waived such an objection via the letter of understanding and by failing to raise the objection earlier in the grievance process. (*Id.* at 8-9.) Further, the arbitrator rejected the Company's argument that the Union agreed to the pay grade classifications by ratifying the 1999 Agreement, thereby making its grievance moot. Specifically, the arbitrator explained,

> The Company has strongly argued that when the [1999 Agreement] was ratified and subsequently executed, the Union had agreed to pay grade 1 wage for the PCA

> classification. This is contrary to the letter of understanding . . . . Further, for purpose of argument, even if the Company is correct in this contention, there is no provision in the Bargaining Agreement that prohibits an employee from filing a grievance if the employee believes he is performing the same work as employees in a higher classified job. Merely because a job is classified in a particular wage grade does not mean that an employee is frozen in that pay grade. The work that is performed is determinative, and here the issue is whether the PCA's [*sic*], pay grade 1, are performing pay grade 3 work.

(*Id.* at 11.) The arbitrator went on to make a factual determination that the qualifications and job responsibilities of PCAs and HHAs are substantially the same, thereby entitling PCAs to grade 3 pay. (*Id.* at 11-16.) As a remedy, the arbitrator directed that PCAs "are entitled to pay grade 3 rates from the date the grievance was filed for all hours worked, including vacations, sick leave, overtime, and any other hourly rates for which the employees received compensation." (*Id.* at 17.)

In a letter dated April 24, 2000, the Company informed the Union that it would not comply with the arbitrator's decision, and advised that "[a]ny effort by the Union to obtain [Company] acceptance of the terms of [the] decision will be viewed by the [Company] as a violation of the current contract by the Union and will be appropriately dealt with. . . ." (Compl. Ex. 5.) This action followed.

The parties have filed cross motions for summary judgment, and have presented written and oral argument. The case is ripe for decision.

II

Review of the decisions of labor arbitrators by federal courts is permitted under section 301 of the Labor Management Relations Act, 1947, 29 U.S.C.A. § 185 (West 1998). However, such review is extremely limited. *See United Steelworkers v. Am. Mfg. Co.*, 363 U.S. 564 (1960), *United Steelworkers v. Warrior & Gulf Navigation Co.*, 363 U.S. 574 (1960), and *United Steelworkers v. Enterprise Wheel & Car Corp.*, 363 U.S. 593 (1960).[1]

The interpretation of a collective bargaining agreement is, therefore, a matter generally left to the arbitrator. Where the parties have bargained for the arbitrator's interpretation of an agreement, "the courts have no business overruling him because their interpretation of the contract is different from his." *Enterprise Wheel*, 363 U.S. at 599. Moreover, a court does not "sit to hear claims of factual or legal error by an arbitrator" and must defer to the arbitrator "as long as the arbitrator is even arguably construing or applying the contract and acting within the scope of his authority." *United Paperworkers Int'l Union, v. Misco, Inc.*, 484 U.S. 29, 38 (1987).

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[1] The Court's 1960 decisions, known as the "Steelworkers Trilogy," established the practice of constrained judicial review of arbitrators' awards. The rationale was clearly stated in *Enterprise Wheel*: "The federal policy of settling labor disputes by arbitration would be undermined if courts had the final say on the merits of the awards." 363 U.S. at 596. More recently, the Fourth Circuit has similarly noted that "[t]his narrow standard of review is necessary to preserve the benefits of arbitration, to wit, reduced delay and expense, and to prevent arbitration from becoming a preliminary step to judicial resolution." *Apex Plumbing Supply, Inc. v. U.S. Supply Co.*, 142 F.3d 188, 193 n.5 (4th Cir. 1998).

As a result, "that a court is convinced [the arbitrator] committed serious error does not suffice to overturn [the arbitrator's] decision." *Id.* The focus for judicial inquiry thus becomes "whether the arbitrator did his job—not whether he did it well, correctly, or reasonably, but simply whether he did it." *Mountaineer Gas Co. v. Oil, Chem. & Atomic Workers Int'l Union*, 76 F.3d 606, 608 (4th Cir. 1996).

Nevertheless, an arbitrator's decision may be vacated or remanded under certain limited circumstances. As the Fourth Circuit has noted, courts still have "the obligation to insure that the arbitrator has acted within the contractually-drawn boundaries of his authority." *Champion Int'l Corp. v. United Paperworkers Int'l Union*, 168 F.3d 725, 728 (4th Cir. 1999).

Under the Fourth Circuit's reading of Supreme Court precedent, three grounds exist for vacating an arbitrator's award: "[i]f it violates clearly established public policy, fails to draw its essence from the collective bargaining agreement, or reflects merely the arbitrator's personal notions of right and wrong." *Champion Int'l*, 168 F.3d at 729; *see also Mountaineer Gas*, 76 F.3d at 608 (citing *Misco*, 484 U.S. at 36). From a practical perspective, the Fourth Circuit has stated the grounds for vacation of an award in the following terms: "[courts] do not review the reasoning of arbitrators in determining whether their work draws its essence from the contract, but look only to the result reached; the single question is whether the award, however arrived at, is

rationally inferable from the contract." *Apex Plumbing Supply, Inc. v. U.S. Supply Co.*, 142 F.3d 188, 193 n.5 (4th Cir. 1998). In other words, the rule in this circuit is that "[a]n arbitration award will not be set aside unless it is irrational or evidences manifest disregard for law." *Id.* at 193 n.5.

The standard for remand is slightly different. Remand as a remedy is appropriate "where the issues submitted to arbitration are only partially resolved; where the award is clear and final but has generated a collateral dispute about the terms of the award; and where the award contains a glaring or patent ambiguity." *United Auto., Aerospace & Agric. Implement Workers of America, Local 149 v. Abex Friction Products Div., Pneumo Abex Corp.*, Civ. A. No. 94-0043-H, 1995 WL 130914, at *2 (W.D. Va. Mar. 10, 1995).

An arbitrator's failure to expressly address issues presented in the arbitration is not a per se ground for either vacation or remand of the arbitrator's decision. To the contrary, it is well established that arbitrators are not required to state reasons for their awards.[2] Moreover, arbitrators are not required to address every issue raised in the arbitration, provided the arbitrator's decision rests on an "adequate basis." *Forsythe*

[2] "The policy behind such a rule is manifest. If arbitrators were required to issue an opinion or otherwise detail the reasons underlying an arbitration award, the very purpose of arbitration–the provision of a relatively quick, efficient, and informal means of private dispute settlement–would be markedly undermined." *Antwine v. Prudential Bache Sec., Inc.*, 899 F.2d 410, 412 (5th Cir. 1990).

Int'l, S.A., v. Gibbs Oil Co., 915 F.2d 1017, 1023 (5th Cir. 1990).

Conversely, where the failure to specifically address a particular issue raises doubts as to whether the award was drawn from the essence of the agreement, remand is appropriate:

> [A]n arbitrator is confined to interpretation and application of the collective bargaining agreement; he does not sit to dispense his own brand of industrial justice. . . . [H]is award is legitimate only so long as it draws its essence from the collective bargaining agreement. When the arbitrator's words manifest an infidelity to this obligation, courts have no choice but to refuse enforcement of the award.

Enterprise Wheel, 363 U.S. at 597. Accordingly, the Fourth Circuit has held that although arbitrators are not required to state reasons for their awards, "when an arbitrator does provide reasons for a decision and when those reasons are so ambiguous as to make it impossible for a reviewing court to decide whether an award draws its essence from the agreement, the court may remand the case to the arbitrator for clarification." *Cannelton Indus., Inc. v. District 17, UMWA*, 951 F.2d 591, 593-94 (4th Cir. 1991). In short, without some evidence that the arbitrator's decision is "grounded in the collective bargaining agreement,"[3] the court must conclude that the arbitrator has, indeed, exercised his "own brand of industrial justice." *Champion Int'l*,

[3] Or, as another circuit has put it, evidence that the arbitrator's interpretation is "derived from the language of the contract." *Polk Bros., Inc. v. Chicago Truck, Inc*, 973 F.2d 593, 597 (7th Cir. 1992).

168 F.3d at 729 (quoting *Enterprise Wheel*, 363 U.S. at 597).

III

The Union contends that the arbitrator's decision was correct in all respects and should be upheld in light of the highly deferential standard of review in labor arbitration. The Company seeks to set aside the arbitrator's decision, arguing that because the 1999 Agreement places PCAs in pay grade 1, and was ratified by the Union, the arbitrator's decision failed to draw its essence from the contract as required by case law. In addition, the Company argues that by issuing the letter of understanding allowing the grievance to proceed under the terms of the 1997 Agreement, the Company did not contemplate that the grievance would be applied to the 1999 Agreement as well.

While it is true that the grievance was filed on September 3, 1999, and the 1999 Agreement did not become effective until September 10, 1999, the arbitrator found that the Company was on notice of the outstanding grievance relating to job classifications at the time of the ratification of the 1999 Agreement, and agreed to the continued grievance procedure by issuing the letter of understanding on September 27, 1999. (Arb. Dec. at 8-9.) Because of the unusually deferential standard of review in labor arbitration cases, I cannot reject this factual finding by the arbitrator. *See United*

Paperworkers Int'l Union, 484 U.S. at 38. Furthermore, there is a strong presumption that all questions on which the parties disagree are subject to arbitration unless expressly excluded from arbitration under the contract. *See Warrier & Gulf Navigation Co.*, 363 U.S. at 585-85. Despite the Union's ratification of the 1999 Agreement, the Union's claim of improper job classification is grounds for the grievance and arbitration process.[4] Therefore, the arbitrator's finding that the issue was arbitrable must stand.

The arbitrator's determination that PCAs are entitled to grade 3 pay because they do substantially the same work as HHAs was a finding of fact that cannot be vacated by this court even if I believed that the arbitrator was mistaken. *See United Paperworkers Int'l Union*, 484 U.S. at 38. As discussed above, arbitrators are often called upon to make factual determinations as to the classification of employees according to the work they do, and it was proper for the arbitrator in this case to make such a determination.

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[4] As one authority has noted:

> The establishment of job classifications and wage rates payable for the work called for by the respective classifications presupposes that employees will be classified (and paid) properly for the work they do. A continually recurring question during the life of a collective agreement is whether or not given employees are properly classified. Literally hundreds, perhaps thousands, of arbitration cases have presented this kind of issue for decision . . . .

Donald P. Rothschild et al., *Collective Bargaining and Labor Arbitration* 657 (3d ed. 1988).

The problem in this case, however, is that the remedy awarded by the arbitrator is not clear. Although he found that PCAs are entitled to back-pay at the grade 3 level "from the date the grievance was filed," the arbitrator did not indicate the duration of this entitlement. (Arb. Dec. at 17.) Because the arbitrator's decision is based on factual findings, the award could not be applied *in futuro* through the life of the 1999 Agreement, lest the facts change. On the other hand, if the arbitrator's decision only applied to conditions as they were under the expired 1997 Agreement, then his award could be interpreted to apply only to the period between the filing of the grievance and the effective date of the 1999 Agreement, a scope of only one week. Another possibility is an award through January 13, 2000, the date of the arbitration hearing.

It is well-settled that a court cannot enforce an arbitration award that is "incomplete, ambiguous, or contradictory." *Bell Aerospace Co. Div. of Textron, Inc. v. Local 516, Int'l Union*, 500 F.2d 921, 923 (2d Cir. 1974). As such, "where an award generates a collateral dispute about its scope or application, the question of whether the award will be enforced is for the arbitrator and not the court." *Teamsters Union Local No. 115 v. DeSoto, Inc.*, 725 F.2d 931, 940 (3d Cir. 1984). In such cases, remand to the arbitrator is appropriate. *See id.* Therefore, I will remand this case to the arbitrator to clarify his award.

A final judgment will be entered in accord with this opinion.

DATED: March 20, 2001

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United States District Judge