

FEDERAL LABOR RELATIONS AUTHORITY  
WASHINGTON, D.C.

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UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, D.C.  
(Agency)

and

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES  
NATIONAL COUNCIL OF HUD LOCALS 222  
(Union)

0-AR-4206

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ORDER DISMISSING EXCEPTIONS

August 3, 2007

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On April 19, 2007, the Authority issued an Order directing the Agency to show cause why its exceptions to the award of Arbitrator Andree Y. McKissick, filed with the Authority on March 1, 2007, should not be dismissed as untimely filed. The Agency filed a timely response to the Authority's Order To Show Cause. For the following reasons, the Agency's exceptions are dismissed as untimely.

As noted in the Authority's Order To Show Cause, the time limit for filing exceptions to an arbitration award is 30 days "beginning on the date the award is served on the [filing] party[.]" 5 U.S.C. § 7122(b); see also, 5 C.F.R. § 2425.1(b). The date of service is the date the award is deposited in the U.S. mail, delivered in person, received from commercial delivery, or in the case of fax transmission, the date transmitted. 5 C.F.R. § 2429.27(d). Absent evidence to the contrary, an award is presumed to have been served by mail on the date of the award. See *Okla. City Air Logistics Ctr., Tinker Air Force Base, Okla.*, 32 FLRA 165, 167 (1988) (Tinker). If the award is served by mail, 5 days are added to the period for filing exceptions to the award. 5 C.F.R. § 2429.22. The time

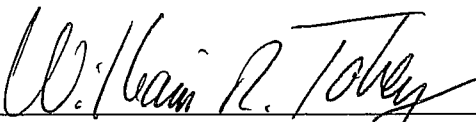
limit may not be extended or waived by the Authority.  
5 C.F.R. § 2429.23(d); see also *United States Info. Agency*,  
49 FLRA 869, 871-73 (1994).

In its response to the Authority's Order To Show Cause, the Agency asserts that its exceptions were timely filed and requests that the Authority withdraw its Order To Show Cause. The Agency claims in this connection that the award was served on the Agency by mail on January 25, 2007. In support of its claim, the Agency provided a copy of the envelope that contained the award. The envelope appears to have been postmarked January 25, 2007, rather than January 24, 2007, which was the date of the award.

Even assuming the award was served on the Agency by mail on January 25, 2007, the Agency's exceptions are still untimely. Pursuant to the Authority's regulations, the period for filing exceptions would have ended on February 28, 2007. 5 C.F.R. §§ 2425.1(b), 2429.21(b), 2429.22 & 2429.24(e). In this regard, the 30-day period for filing exceptions started to run on January 25, 2007 and expired on February 23, 2007.\* Adding 5 days for service by mail, the due date for filing exceptions was February 28, 2007. As previously noted, the Agency's exceptions were filed with the Authority by personal delivery on March 1, 2007.

Accordingly, the Agency's request to withdraw the Authority's April 19, 2007, Order To Show Cause is denied and the Agency's exceptions are dismissed. The Authority will not take further action in this case.

For the Authority:

  
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William R. Tobey, Acting Chief  
Case Intake and Publication

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\* The 30-day period for filing exceptions begins on the date the award is served, not the day after it is served. *U. S. Dep't of the Army, Headquarters, XVIII Airborne Corps, Fort Bragg, N.C.*, 37 FLRA 877, 878 n.2 (1990); see also 5 C.F.R. §§ 2425.1(b) & 2429.21(a).

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STATEMENT OF SERVICE

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I hereby certify that copies of the Order Dismissing  
Exceptions of the Federal Labor Relations Authority in the  
subject proceeding have this day been mailed to the following:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

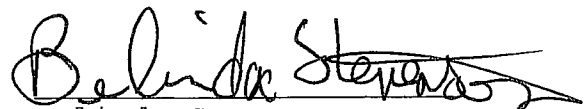
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DATED: August 3, 2007  
WASHINGTON, DC

  
Belinda Stevenson  
Legal Clerk