OFFICE OF COMPLIANCE
LA 200, John Adams Building, 110 Second Street, S.E.
Washington, DC 20540-1999

Fraternal Order of Police, U. S. Capitol Police Labor Committee Union, v. United States Capitol Police Board Employing Office.	)	Case Number: 08-ARB-1

Before the Board of Directors: Susan S. Robfogel, Chair; Barbara L. Camens, Alan V. Friedman, Roberta L. Holzwarth, and Barbara Childs Wallace, Members.

DECISION OF THE BOARD OF DIRECTORS

This matter is before the Board on exceptions filed on February 21, 2008, by the Fraternal Order of Police, U. S. Capitol Police Labor Committee ("Union") to an award by Arbitrator Joshua M. Javits. On March 21, 2008, the United States Capitol Police Board ("Employing Office") filed its "Opposition to the Union's Exceptions."

The Board of Directors has reviewed this matter pursuant to the requirements of 5 U.S.C. 7122, as adopted by section 220(a) of the Congressional Accountability Act (2 U.S.C. 1351(a)), and Part 2425 of the Regulations of the Office of Compliance.

The Arbitrator found that the request for expedited arbitration of an officer's termination was untimely and therefore not arbitrable. In so doing, the Arbitrator first found that the Employing Office's letter of July 16, 2007 concerning the "recommendation of termination" was a proposed disciplinary action that was not covered by the collective bargaining agreement (CBA), and that the Union's request on August 3, 2007, for expedited arbitration of this proposed disciplinary action was not arbitrable. Second, the Arbitrator found that the effective date of the final termination was October 12, 2007, and that under the CBA, a request for expedited arbitration of the termination had to be filed by November 1, 2007--within twenty days of the effective date of the discipline. Because the Union requested expedited arbitration on November 21, 2007, the Arbitrator found that the Union's request was untimely under the CBA and that the matter,

therefore, was not arbitrable. He thus rejected the Union's argument that its August 3, 2007 request for expedited arbitration, based on the July 16, 2007 letter, was sufficient notice of its intent to request expedited arbitration on the October 12, 2007 termination.

Exceptions in this matter are premised largely on the Union's assertions that the Arbitrator erred in interpreting the CBA and in making his findings of fact.[1] Our scope of review of arbitration decisions in these circumstances is extremely narrow. See, e.g., *United Paperworkers International Union, AFL-CIO v. Misco, Inc.*, 484 U.S. 29, 36 (1987) ("The courts are not authorized to reconsider the merits of an award even though the parties may allege that the award rests on errors of fact or on misinterpretation of the contract."); *Major League Baseball Players Ass'n. v. Garvey*, 532 U.S. 504, 509 (2001)("When an arbitrator resolves disputes regarding the application of a contract… the arbitrator's 'improvident, even silly, factfinding' does not provide a basis for a reviewing court to refuse to enforce the award."); and *U.S. Department of Treasury, U.S. Customs Service v. Federal Labor Relations Authority*, 43 F.3d 682, 686-687 (D.C. Cir. 1994)(Where arbitrator's award implicates only the collective bargaining agreement, FLRA's role of reviewing award is limited to that of federal courts in private sector labor-management relations.) Applying this standard of review to the award at issue, we find no basis for overturning the arbitrator's award. We stress that upholding the award under this narrow standard is not to be construed as agreement with the arbitrator's analysis or as an indication of the decision we would have made had the case been before us on the merits.

The Union's exceptions are denied.

It is so ORDERED.

Issued, Washington, DC on February 13, 2009

[1] The Union's motion for oral argument is denied as the record and the submission of the parties form a sufficient basis for resolution of this case. The Union's motion for leave to file a submission to correct inaccurate assertions by the Capitol Police Board is denied, as the Office of Compliance regulations, Part 2425, do not provide a mechanism for correcting inaccurate assertions by a party. Finally, the Board finds it unnecessary to take judicial notice of congressional actions regarding the role of the House Administration Committee and Senate Rules Committee in approving hiring, promotions, and terminations. The Union has no contractual relation with these bodies, and matters relating to these committees, therefore, do not come within the scope of this proceeding.