

IN THE THIRTEENTH JUDICIAL CIRCUIT FOR THE STATE OF FLORIDA
CIRCUIT CIVIL DIVISION

AMALGAMATED TRANSIT,
LOCAL 1593,
Petitioner,

Circuit Case No.: 20-CA-5240
Division: B

v.

HILLSBOROUGH COUNTY TRANSIT
AUTHORITY,
Respondent.

ORDER DENYING PLAINTIFF/PETITIONER'S
PETITION TO VACATE ARBITRATION AWARD

THIS CAUSE comes before the Court on Petitioner Amalgamated Transit, Local 1593's Petition to Vacate Arbitration Award filed June 25, 2020. The petition seeks to vacate an arbitration award rendered March 27, 2020, on the ground that the arbitrator's decision exceeded his or her authority under the employment agreement between Plaintiff and Defendant. A hearing was held March 4, 2021. Present were Nicholas Wolfmeyer for Petitioner and Cindy Townsend for Respondent. The Court, having reviewed the motion, response, attachments, applicable law, and heard arguments of counsel, and being otherwise fully advised in the premises, finds that:

1. The parties were subject to an employment agreement.
2. Michaela Stuckey was employed by Respondent as a bus operator. Stuckey was terminated from her employment for alleged misconduct.
3. The parties submitted to binding arbitration as provided in the parties' collective bargaining agreement. The arbitrator rendered a decision March 27, 2020. The petition to vacate the award pursuant to section 682.13(1)(d), Florida Statutes, was filed June 25, 2020, within 90 days of service of the award. It is, therefore, timely.
4. The award set forth findings of fact, including a history of conflict between employer and employee, and legal conclusions. The arbitrator found that the alleged misconduct did not constitute just cause for termination on the grounds Respondent had cited. For this reason, the arbitrator awarded back pay to Stuckey. Because of the long-standing conflict between employer and employee, however, the arbitrator declined to reinstate Stuckey to her employment. Petitioner contends that the arbitrator's failure to reinstate Stuckey's employment exceeded his authority under section 682.13(1)(d), Florida Statutes, and the parties' collective bargaining agreement. Petitioner therefore contends that the award, insofar as it denies reinstatement, should be set aside.

5. As set forth in the arbitrator's award, Petitioner provided the arbitrator express and broad authority to fashion a remedy under the facts of the case. Specifically, the issue as framed by the Petitioner and submitted to the arbitrator is as follows: "Was the discharge of Michaela Stuckey for just cause in accordance with the Agreement? *If not, what shall the remedy be?*" (Emphasis added.)

An arbitration award may be vacated only on limited grounds. §682.13, Fla. Stat. Here, the only ground asserted is that the arbitrator exceeded his powers. §682.13(1)(d), Fla. Stat. Petitioner contends that the arbitrator exceeded the authority given arbitrators and arbitration proceedings under the parties' collective bargaining agreement. Under its terms the arbitrator shall:

- (a) Have no power to change the wages, working hours, or conditions of employment or work rules set forth in this Agreement;
- (b) Have no power to add to, subtract from, or modify any of the terms of this Agreement;
- (c) Deal only with the grievance, which occasioned the appointment;
- (d) Shall be bound by any stipulation entered by and between the parties offered into evidence during the course of the hearing.

Petitioner, not without some justification, takes issue with part of the award in light of the arbitrator's legal conclusions. Specifically, the arbitrator determined that "the facts of this case did not support [Respondent] HART's position" that Stuckey engaged in sexual harassment or improper conduct such that her termination was without just cause.¹ For this reason, the arbitrator awarded Stuckey back pay, reduced by any unemployment compensation she received. The arbitrator also found a history of conflict between Respondent and Stuckey. For this reason, the award does not require Respondent to reinstate Stuckey to her position. Petitioner does not oppose the back pay, only the award's refusal to reinstate Stuckey to her former position. Although Article 13 of the collective bargaining agreement permits an arbitrator to award back pay, it does not mandate reinstatement.

In support of its contention that the arbitrator exceeded his authority, Petitioner cites *Visiting Nurse Ass'n of Florida, Inc. v. Jupiter Med. Ctr., Inc.*, 154 So. 3d 1115, 1136 (Fla. 2014), which holds that an arbitrator exceeds his authority when he goes beyond the authority granted by the parties or the operative documents and decides an issue not pertinent to the resolution of the issue submitted to arbitration. Petitioner's argument fails on two grounds. The first is that Petitioner has not identified any authority of the operating document—the collective bargaining agreement—that the arbitrator exceeded. Second, Petitioner ignores the authority it expressly provided the arbitrator: "Was the discharge of Michaela Stuckey for just cause in accordance with the Agreement? *If not, what shall the remedy be?*" The arbitrator's ability to fashion a remedy under the facts presented was exceptionally broad—and Petitioner endorsed it.

¹ Although not set forth in detail here, Stuckey's on-the-job conduct as described in the arbitration award, which conduct involved sexual horseplay, is, in this court's view, at odds with the arbitrator's conclusion that the conduct was not improper, even if it did not rise to the level of sexual harassment. However, this court's assessment of the conduct is not a consideration in the court's determination of the petition to vacate the award.

Parties to an agreement containing an arbitration provision specifically bargained for an arbitrator's construction and interpretation of the agreement as an *alternative* to litigation in the court system, as opposed to an additional step in the process. *Visiting Nurse at 1135-36*. Allowing judicial review of the merits of an arbitration award for any reason other than those stated in section 682.13(1) would undermine the purpose of settling disputes through arbitration. *Id.* In addition, “[i]t is well settled that ‘the award of arbitrators in statutory arbitration proceedings cannot be set aside for mere errors of judgment either as to the law or as to the facts; if the award is within the *scope of the submission*, and the arbitrators are not guilty of the acts of misconduct set forth in the statute, the award operates as a final and conclusive judgment.’” *Schnurmacher Holding, Inc. v. Noriega*, 542 So.2d 1327, 1328 (Fla.1989) (internal citations omitted) (emphasis added). The fact that the relief granted is such that it could not or would not be granted by a court of law or equity is not a ground for vacating or modifying the award. *Marr v. Webb*, 930 So. 2d 734, 737 (Fla. 3d DCA 2006), citing *Schnurmacher*, at 1328; see also *Managed Care Ins. Consultants, Inc. v. United Healthcare Ins. Co.*, 228 So. 3d 588, 593 (Fla. 4th DCA 2017) (a claim of legal error by the arbitration panel is not a ground to vacate an arbitration award).

Under the facts of this case, although reinstatement of Stuckey’s employment is one remedy, it is not the *only* remedy. *Petitioner v. Respondent*, 2007 WL 7630406 (AAA, 2007), at *5. Such a breach could alternatively be remedied, as it was in this matter, by monetary damages. *Id.* (...fact that discharge without just cause was prohibited by the collective bargaining agreement does not clearly require that the remedy for such a breach be reinstatement).

It is therefore ORDERED that the Petition to Vacate Arbitration Award is DENIED in its entirety.

ORDERED on the date imprinted with the Judge’s signature.

Electronically Conformed 3/9/2021

Mark Wolfe

Mark Wolfe, CIRCUIT JUDGE

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