

So What is an Arbitration “Reasoned Award” Anyway?

By

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I. Introduction

It is commonly understood that arbitration awards can run from a mere statement of who wins and in what amount to full findings of facts and conclusions of law. Somewhere in the middle are “reasoned awards” which are sometimes contained in arbitration procedures or agreed to by the arbitrators and counsel. The purpose of this article is to examine caselaw to determine what level or type of “reasoning” in awards is necessary to avoid an award being vacated or remanded for clarification.

II. Caselaw in Which Awards were Insufficiently Reasoned

A dispute over generators subject to the International Dispute Resolution Proceedings of the AAA was involved in *Smarter Tools Inc. v. Chongqing SENCI Import & Export Trade Co.*, 2019 U.S. Dist. LEXIS 59633 (S.D.N.Y.) The parties requested that the arbitrator issue a reasoned award. The arbitrator found for the complainant on its claims noting that such claims were well founded and supported by the evidence. As to the respondent’s counterclaims, the arbitrator denied them merely noting that their expert witness lacked credibility.

The *Smarter Tools* court noted that ordinarily, an arbitrator’s ruling need not be explained but that the parties may choose to require more explanation of the award. The court ruled that in this case, the arbitrator did not provide a reasoned basis to deny the counterclaims. While the lack of credibility of the respondent’s expert provided some rationale for denial of some portion of the counterclaims, it was not a basis for denial of other portions. The ruling on the counterclaim was vacated and remanded to the arbitrator for further explanation.

Tully Constr. Co. v. Canam Steel Corp., 2015 U.S. Dist. LEXIS 25690 (S.D.N.Y) was a dispute over a contract to supply steel components for a highway. The parties’ arbitration agreement called for a reasoned award under AAA Arbitration Rules for Complex Construction Cases. The arbitrator’s award included a line item breakout of his award for both the claims and counterclaims but no explanation. Pursuant to a motion to vacate, the court observed that to render a “reasoned award”, an arbitrator need not discuss each piece of evidence or how every single proposition he adopted was derived.¹ However, it is:

[C]lear that a “reasoned” award is an award that is provided with or marked by a detailed listing or mention of expressions or statements offered as a justification . . . [for] the decision of the [arbitrator]. Where, as here, an arbitration award contains no explanation whatsoever for the arbitrator’s rulings, it is not a “reasoned award.”²

The court remanded to the arbitrator for a reasoned award.

See also, W. Empls Ins. Co. v. Jefferies & Co., 958 F.2d 258 (9th Cir. 1992) which involved a National Association of Securities Dealers dispute with an arbitration agreement that called for the arbitrators to make findings of fact and conclusions of law. The arbitration panel did not do so and the losing party moved to vacate the award. The court vacated the award ruling that the losing party had a right to arbitration according to the terms for which it contracted.³

III. Caselaw in Which Awards Were Sufficiently Reasoned

Leeward Constr. Co. v. Am. Univ. of Antigua – College of Med., 826 F.3d 634 (2nd Cir. 2016) involved a construction dispute subject to an arbitration agreement that did not require a reasoned award but the arbitrators agreed to do so provide at the organizational meeting. While the arbitrators made rulings about the impact of various changes orders and damages, the losing party claimed a lack of a reasoned award. The court rejected this argument:

[A] reasoned award is something more than a line or two of unexplained conclusions, but something less than full findings of fact and conclusions of law on each issue raised before the panel. A reasoned award sets forth the basic reasoning of the arbitral panel on the central issue or issues raised before it. It need not delve into every argument made by the parties. The award here satisfies that standard: while it does not provide a detailed rationale for each and every line of damages awarded, it does set forth the relevant facts, as well as the key factual findings supporting conclusions.⁴

An output contract by which Conoco agreed to sell green anode coke to Rain provides the backdrop to *Rain CII Carbon, LLC v. ConocoPhillips Co.*, 674 F.3d 469 (5th Cir. 2012). The coke was sold at market price and any disagreement thereon was subject to arbitration. The parties requested a reasoned award. The arbitrator found for Rain and Conoco argued that the arbitrator exceeded his authority by not providing the reasoning behind his finding. The court disagreed ruling:

Conoco’s argument against the award hinges on the summary nature of the arbitrator’s statement that based upon all the evidence, he found that the initial price formula should remain in effect. Conoco ignores that the preceding paragraph thoroughly

delineates Rain's contention that Conoco had failed to show that the initial formula failed to yield market price, a contention that the arbitrator obviously accepted. Conoco would have this court vacate the arbitration award merely because the arbitrator did not reiterate this reason in the following paragraph. Such a narrow approach is inconsistent with the deference owed to arbitral awards and the congressional policy favoring arbitration of commercial disputes, and it also contrary to the interest of finality.⁵

Cat Charter, LLC v. Schurtenberger, 646 F.3d 836 (11th Cir. 2011) was a dispute over the construction of a yacht. The dispute was arbitrated pursuant to the Commercial Arbitration Rules of the AAA and counsel agreed that the arbitration panel should provide a reasoned award. The arbitration award found for the yacht purchaser on several claims based on the "greater weight of evidence."⁶ The yacht builder argued that such finding were not sufficiently reasoned. The court first explained the meaning of a "reasoned award" as:

Strictly speaking, then a "reasoned" award is an award that is provided with or marked by the detailed listing or mention of expressions or statements offered as a justification of an act – the "act" here being, of course, the decision of the panel.⁷

Applying this standard to the arbitrator's award, the court found that the "greater weight of evidence":

[I]s easily understood to mean that, in the swearing match between the Plaintiffs and the Defendants, the Panel found the Plaintiffs' witnesses to be more credible. We certainly cannot say that this statement is devoid of any statements offered as a justification; the reason for the Plaintiff's victory is plainly provided.⁸

In addition, the *Cat Charter* court commented on the benefit of finality:

In the present case, three validly-appointed arbitrators oversaw a five-day hearing and rendered a thoughtful, reasoned award. We decline to narrowly interpret what constitutes a reasoned award to overturn an otherwise apparently seamless proceeding. The parties received precisely what they bargained for To vacate the Award and remand for an entirely new proceeding would insufficiently respect the value of arbitration As such, the Award should be confirmed and this controversy should be put to rest once and for all.⁹

Alleged employment discrimination was the issue in *Green v. Ameritech Corp.*, 200 F.3d 967 (6th Cir. 2000). The parties entered into an arbitration agreement that required the arbitrator to issue “an opinion which explains the arbitrator’s decision with respect to each theory advanced by each Plaintiff”¹⁰ In his award, the arbitrator simply explained that the plaintiffs had not met their burden of proof. One of the plaintiffs argued that the arbitrator had exceeded his authority by not providing a reasoned award. However, the court disagreed:

[T]he arbitrator was not required by the agreement to “fully” to set forth the facts and his conclusions; the agreement simply called for an explanation. Although [the arbitrator’s] opinion was brief and conclusory, he did “explain” why [the employer] prevailed on each theory, namely that [the plaintiff] had not met his burden of proving that the decision was discriminatory or retaliatory.¹¹

Fulbrook Capital Mgmt. LLC v. Batson, 2015 U.S. Dist. LEXIS 8204 (S.D.N.Y.) involved an alleged breach of an employment contract. The arbitrator found for the employee ruling that the employer was not fraudulently induced to enter the contract and that the employee was not terminated for cause. The employer asked the court to rule that the arbitrator has exceeded her authority because the award was not reasoned *i.e.* it failed to state more than a simple result. The court disagreed ruling:

The Award sets out the arbitrator’s key findings and, where necessary, the reasons for these findings. In particular, the Award explains in full its rejection of what was perhaps Petitioner’s most important argument: that [the employee] was not entitled to recover because he had been terminated for cause. And though the Award is a brief three pages, that reflects the nature of the case. This was not a complex commercial dispute¹²

IV. Comments

The above caselaw suggests several points. The courts are not anxious to overturn arbitration results that are otherwise fair due to deficiencies in the wording of the arbitration award. More significantly, it appears that the courts are willing to accept as reasoned awards, brief, summary explanations (*i.e.* failed to meet the burden of proof) that address the major arguments of the parties.

ENDNOTES

¹ 2015 U.S. Dist. LEXIS *36.

² *Id.* at *38 – 9. Internal citation omitted.

³ 958 F.2d at 262. Emphasis in the original.

⁴ 826 F.3d at 640.

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- ⁵ 674 F.3d at 474.
⁶ 646 F. 3d at 841.
⁷ *Id.* at 844.
⁸ *Id.* at 844 – 5.
⁹ *Id.* at 846.
¹⁰ 200 F.3d at 970.
¹¹ *Id.* at 976.
¹² 2015 U.S. Dist. LEXIS 8204 *13 – 4.