

FEDERAL CIRCUIT LACKS JURISDICTION TO CONSIDER SMALL CLAIMS DECISION OF BOARD EXCEPT FOR FRAUD

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The Contract Disputes Act (“CDA”) limits the jurisdiction of the Federal Circuit when reviewing Board of Contract Appeals decisions. Board decisions adjudicated pursuant to the Small Claims Procedure are “final and conclusive and may not be set aside except in cases of fraud.” 41 U.S.C. 7106(b)(4) and 7107. To invoke the Federal Circuit’s jurisdiction, an appellant must make a non-frivolous allegation of fraud in the Board’s proceeding.

In *Billio O. Stone, DBA Stobil Enterprise v. Secy of the Air Force*, Fed. Cl. No. 2020-1233 (Oct. 19, 2021), the Court considered appellant Stone’s claim for removal and replacement of a door under a contract for door removal and replacement. Stone advised the Air Force contract specialist that upon inspection, the drum, which assists in the door’s electrical operation, was damaged. The contract specialist advised Stone that it would need to replace the drum at no additional cost. Stone disagreed and submitted a claim to the contracting officer for \$126,000. The contracting officer denied the claim. When Stone failed to remove and replace the door in the time specified in the contract, the Air Force terminated the contract.

Stone appealed to the Board pursuant to the Small Claims procedure and the Board agreed that Stone should have replaced the drum at no extra cost when it replaced the door,. The appeal was denied.

The Federal Circuit dismissed Stone’s appeal because the company failed to non-frivolously allege fraud. Stone’s fraud allegations were conclusory and unsupported, and Stone provided no specific evidence in support of those allegations. “At bottom, Stone’s arguments amount to a disagreement with the Board’s determination.” Because Stone provided no nonfrivolous allegations of fraud, the Board concluded it lacked jurisdiction to review the appeal.

Takeaway. Don’t appeal a Small Claims Board decision to the Federal Circuit unless you can provide nonfrivolous allegations of fraud in the Board’s proceedings. This means that general allegations of fraud are insufficient. You must provide specific examples of fraud, and actual evidence of that fraud in order for your allegation to be nonfrivolous in order to provide the Court with jurisdiction under the CDA.

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