IN THE COURT OF APPEALS OF THE STATE OF NEVADA

MIKE HESSER, INDIVIDUALLY,
Appellant,
vs.
EDWARD HOMES, INC., A NEVADA CORPORATION,
Respondent.

No. 67118

ORDER OF AFFIRMANCE

This is an appeal from a district court order confirming an arbitration award. Eighth Judicial District Court, Clark County; Nancy L. Allf, Judge.

In this appeal, appellant first argues the arbitrator lacked jurisdiction to preside over the arbitration under NAR 3(B) because the district court never entered a written order directing the case to be transferred to arbitration. As an initial matter, it does not appear that NAR 3(B) applies to this case, as the parties did not proceed through the court-annexed arbitration program, but instead, proceeded through private arbitration. *See* NAR 3(B) (providing that any civil case may be submitted to the court-annexed arbitration program "upon the agreement of all parties and the approval of the district judge to whom the case is assigned"); *see also* NAR 2(B) (providing that the Nevada Arbitration Rules "apply to all arbitration proceedings commenced in the [court-annexed arbitration] program").

Regardless, even if NAR 3(B) does apply, that rule only provides that the court must approve the placement of a case in the program. Nothing in NAR 3(B) requires that a written order of the court

be entered to confer jurisdiction on the arbitrator. *See Leven v. Frey*, 123 Nev. 399, 403, 168 P.3d 712, 715 (2007) ("Generally, when a statute's language is plain and its meaning clear, the courts will apply that plain language."); *Margold v. Eighth Judicial Dist. Court*, 109 Nev. 804, 806, 858 P.2d 33, 35 (1993) ("Court rules, when not inconsistent with the Constitution or certain laws of the state, have the effect of statutes."); *see also Div. of Child & Family Servs. v. Eighth Judicial Dist. Court*, 120 Nev. 445, 454, 92 P.3d 1239, 1245 (2004) (providing that "oral court orders pertaining to case management issues, scheduling, administrative matters or emergencies that do not allow a party to gain an advantage are valid and enforceable"). As a result, appellant's argument that he was entitled to a new arbitration hearing based on jurisdiction lacks merit.

Because the arbitrator properly exercised jurisdiction over the matter and the district court did not identify any other basis for vacating the award or for remanding the matter to the arbitrator, we conclude that the district court should not have vacated the original arbitration decision and remanded the matter to the arbitrator to enter a new order. *See* NRS 38.241(1) (identifying the circumstances under which the district court may vacate an arbitration award); NRS 38.237(4) (identifying the circumstances under which a district court may submit a claim to an arbitrator to decide whether to modify or correct an arbitration award); *Health Plan of Nev., Inc. v. Rainbow Med., LLC*, 120 Nev. 689, 695-97, 100 P.3d 172, 177 (2004) (concluding that a district court is not permitted to remand a matter to an arbitrator except for the reasons set forth in NRS 38.237). And thus, we hold that the arbitrator's order entered on remand is of no effect. Nevertheless, because the arbitrator's order entered on remand did not substantively change the earlier arbitration

award, and the district court ultimately confirmed the arbitration award, we consider appellant's remaining arguments challenging the district court's decision to affirm the award. *See Health Plan of Nev.*, 120 Nev. at 700, 100 P.3d at 179 (affirming the district court's order ultimately confirming an arbitration award, although the court had improperly remanded the matter for additional findings prior to confirming the award).

Appellant next contends the district court should not have confirmed the arbitrator's decision because it constituted a manifest disregard of the law. A party seeking to vacate an arbitration award based on a manifest disregard of the law must show that "the arbitrator, knowing the law and recognizing that the law required a particular result, simply disregarded the law." *Bohlmann v. Byron John Printz & Ash, Inc.*, 120 Nev. 543, 547, 96 P.3d 1155, 1158 (2004), *overruled on other grounds by Bass-Davis v. Davis*, 122 Nev. 442, 452 n.32, 134 P.3d 103, 109 n.32 (2006). Here, although it appears the arbitrator may have misapplied the law, nothing in the record demonstrates that, when it entered its decision, the arbitrator knew the correct law and understood the law to require a particular result, but declined to act accordingly.[1] As a result, we cannot conclude that the arbitrator manifestly disregarded the law. *See id.* ("A reviewing court should not concern itself with the correctness of an

[1]To the extent appellant contends the arbitrator was informed of the correct law in motions filed after the decision was entered, this does not demonstrate that the arbitrator manifestly disregarded the law when the award was entered, and thus, those motions do not provide a basis for reversal.

arbitration award and thus does not review the merits of the dispute." (internal quotation marks omitted)).

Similarly, while appellant's arguments that the arbitrator acted arbitrarily and capriciously arguably demonstrate that the arbitrator misinterpreted the law, these arguments do not show that the arbitrator's factual findings were unsupported by substantial evidence. As a result, we cannot conclude that the arbitrator's award should be overturned under the arbitrary-and-capricious standard. *See Clark Cty. Educ. Ass'n v. Clark Cty. Sch. Dist.*, 122 Nev. 337, 343-44, 131 P.3d 5, 9-10 (2006) ("The arbitrary-and-capricious standard does not permit a reviewing court to vacate an arbitrator's award based on a misinterpretation of the law. Rather, our review is limited to whether the arbitrator's findings are supported by substantial evidence in the record.").

As appellant has not identified any legal basis for overturning the arbitrator's award, the district court properly confirmed the award, and we therefore affirm the district court's order. *See Health Plan of Nev.*, 120 Nev. at 700, 100 P.3d at 179.

It is so ORDERED.

_____, C.J.
Gibbons

_____, J.
Tao

_____, J.
Silver

cc: Hon. Nancy L. Allf, District Judge
Stephen E. Haberfeld, Settlement Judge
A.M. Santos Law, Chtd.
Walsh & Friedman, Ltd.
Eighth District Court Clerk