WEST, J., dissenting. I respectfully disagree with the majority's conclusion that the record does not support Patricia Russo's claim that the arbitrator, in finding that the defendant, the board of education of the city of Danbury (board), terminated her employment in accordance with the parties' collective bargaining agreement (agreement), disregarded her contractual rights under that agreement. On the contrary, and on the basis of my review of the record before this court, I conclude that the arbitrator abrogated her contractual right to paid sick leave under the agreement by placing the onus on Russo to seek out "light duty" work from the board.[1] Because that action amounted to the arbitrator modifying the agreement, I would reverse the judgment of the trial court and remand this case with direction to vacate the arbitrator's award. Accordingly, I respectfully dissent.

Initially, I note that I agree with the majority's explication of the established principles that guide the review of an arbitration award that is based on an unrestricted submission. I, however, find it necessary to underscore that " '[a]n arbitrator is confined to interpretation and application of the collective bargaining agreement; he does not sit to dispense his own brand of industrial justice. He may of course look for guidance from many sources, yet his award is legitimate only so long as it draws its essence from the collective bargaining agreement. When the arbitrator's words manifest an infidelity to this obligation, courts have no choice but to refuse enforcement of the award.' . . . *Hudson Wire Co.* v. *Winsted Brass Workers Union*, 150 Conn. 546, 553, 191 A.2d 557 (1963)." *Local 391, Council 4, AFSCME* v. *Dept. of Correction*, 76 Conn. App. 15, 19, 817 A.2d 1279 (2003). Likewise, I agree that "[m]erely because an arbitral decision is not based on the express terms of a collective bargaining agreement does not mean that it is not properly derived from the agreement. An arbitrator is entitled to take cognizance of contract principles and draw on them for guidance in construing an agreement. . . . Neither a misapplication of principles of contractual interpretation nor an erroneous interpretation of the agreement in question constitutes grounds for vacatur." (Internal quotation marks omitted.) Id, 18–19.

Here, the arbitrator concluded that Russo had "violated the letter and spirit of the sick leave provisions" in the agreement. That was so, the arbitrator concluded, because Russo, in her "position of heightened knowledge" that resulted from her supervisory role, "knew, or should have known, that an accommodation [for] her limitations was possible." Therefore, he reasoned,

Russo had a responsibility under the sick leave provisions to come forward and to seek an accommodation for her injuries or, at the very least, to clarify the matter with her supervisor. It seems to me, however, that in so doing, the arbitrator placed on Russo obligations, apparently cut from whole cloth, that the agreement did not expressly or implicitly impose. My review of the agreement reveals that there is no provision in it requiring an employee to seek out "light duty," nor, I believe, can one reasonably be implied through contract interpretation. As such, I conclude that the arbitrator's decision clearly was not properly derived from that agreement.[2] Essentially, the arbitrator, by adding terms to the agreement, did not engage in a plausible interpretation of the contract and, thereby, exceeded his powers such that a mutual, final and definite award was not made. See General Statutes § 52-418 (a) (4); footnote 2 of the majority opinion; *Office of Labor Relations* v. *New England Health Care Employees Union, District 1199, AFL-CIO*, 288 Conn. 223, 951 A.2d 1249 (2008); cf. *Comprehensive Orthopaedics & Musculoskeletal Care, LLC* v. *Axtmayer*, 293 Conn. 748, 763, 980 A.2d 297 (2009) (*Katz, J.*, dissenting) ("When parties to an arbitration agreement use terms that have a well settled, universally understood, unambiguous meaning, they have not intended to open up those terms to interpretation by the arbitrator. Thus, when an arbitrator ignores the settled meaning of a term, the arbitrator has not engaged in a plausible interpretation of the contract and, in such a case, has exceeded his authority.").

Because the arbitrator's memorandum of decision manifests his infidelity to his obligation to issue an award that draws its essence from the agreement by, essentially, modifying the provisions of the agreement, I conclude that the arbitrator exceeded his powers within the meaning of § 52-418 (a) (4) and dispensed his own brand of industrial justice. See *Local 391, Council 4, AFSCME* v. *Dept. of Correction*, supra, 76 Conn. App. 19. I, therefore, respectfully dissent.

[1] The arbitrator also concluded that Russo's behavior was so serious that it did not warrant progressive discipline. Because I conclude that the arbitrator exceeded his authority by modifying the agreement to include an obligation placed on Russo to seek out an accommodation, I also conclude that her actions did not constitute an offense at all. Therefore, she should have been subjected to no discipline, and I need not discuss further the arbitrator's conclusions in that regard.

[2] See R. Gorman & M. Finkin, Basic Text on Labor Law, Unionization and Collective Bargaining (2d Ed. 2004) § 25.3, p. 825 ("[i]f the arbitrator's decision is based on 'subjective notions of a fair labor contract' not reasonably anchored in the contract itself, or on 'some body of thought, or feeling, or policy, or law that is outside the contract [and not incorporated in it by reference],' a court may well vacate the award"), quoting *Harry Hoffman Printing, Inc.* v. *Graphic Communications International Union, Local 261*, 950 F.2d 95, 98, 100 (2d Cir. 1991).