

CASE DIGEST: *U.S. DHS, Citizenship & Immigration Services, Dist. 18*, 71 FLRA 167 (2019) (Member DuBester dissenting)

This case concerned a grievant who was suspended for fourteen days for a second misconduct offense. The Arbitrator reduced the grievant's fourteen-day suspension to a one-day suspension because he found that the misconduct was her first offense. The record demonstrated that the misconduct was her second offense. The Authority found that the Arbitrator's mitigation of the suspension was based on a nonfact and vacated the award.

Member DuBester dissented, finding that although the grievant's misconduct underlying the suspension was her second disciplinary offense, the Agency's progressive-discipline regulation does not definitively require a fourteen-day suspension for a second disciplinary offense. Therefore, he would have remanded the award to the parties for resubmission to the Arbitrator, absent settlement, to determine the appropriate remedy consistent with this decision.

This case digest is a summary of a decision issued by the Federal Labor Relations Authority, with a short description of the issues and facts of the case. Descriptions contained in this case digest are for informational purposes only, do not constitute legal precedent, and are not intended to be a substitute for the opinion of the Authority.