

**CASE DIGEST:** *U.S. DHS, U.S. CBP, El Paso, Tex.*, 71 FLRA 49 (2019)  
(Member DuBester dissenting)

This case concerned the Union’s motion asking the Authority to reconsider its decision in *U.S. DHS, U.S. CBP, El Paso, Texas*, 70 FLRA 501 (2018) (*DHS I*) (Member DuBester dissenting). In *DHS I*, the Authority overturned precedent holding that there is no substantive difference between the terms “conditions of employment” and “working conditions,” as used in 5 U.S.C. § 7103(a)(14). Specifically, the Authority found that those different terms – one of which Congress used to define the other – cannot mean the same thing.

In the motion, the Union argued that the Authority misapplied the U.S. Supreme Court’s decision in *Fort Stewart Schools v. FLRA*, 495 U.S. 641 (1990) (*Fort Stewart*). However, the Authority stated that it based its conclusion in *DHS I* on the plain wording of § 7103(a)(14) – not *Fort Stewart*. Moreover, the Authority noted that in *Fort Stewart* the Court recognized that “conditions of employment” and “working conditions” *are* susceptible to distinct interpretations. Thus, the Union’s motion failed to establish extraordinary circumstances warranting reconsideration of *DHS I*, and the Authority denied it.

Member DuBester dissented, asserting that he would have granted the motion for the reasons expressed in his dissent in *DHS I*.

This case digest is a summary of an order 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.