

CASE DIGEST: *AFGE, Nat'l Joint Council of Food Inspection Locals, AFL-CIO*, 71 FLRA 69 (2019) (Member Abbott concurring)

This case concerned whether a provision in the parties' collective-bargaining agreement excused the Union's refusal to bargain with the Agency over a new agreement. A reopener provision in the parties' agreement provided that the parties would renegotiate if either party timely served its demand to bargain along with initial written proposals. Citing that provision, the Union refused to bargain because the Agency had submitted only ground rules proposals with its bargaining demand. An FLRA Regional Director issued a complaint alleging that the Union violated § 7116(b)(1) and (5) of the Federal Service Labor-Management Relations Statute (Statute) by refusing to bargain. An FLRA Administrative Law Judge (the Judge) found that the cited provision did not require submitting substantive proposals. As such, the Judge found that the Union could not refuse to bargain on the basis that the Agency submitted only ground-rules proposals. The Union filed exceptions to the Judge's recommended decision and argued that the Judge misinterpreted the contract provision. The Authority found that the Judge's interpretation was consistent with the record and the standards and principles that arbitrators and federal courts apply when interpreting collective-bargaining agreements. Therefore, the Authority denied the Union's exceptions and found that the Union violated § 7116(b)(1) and (5) of the Statute.

Member Abbott concurred. Although he agreed that the record supported the Judge's conclusions, Member Abbott would have applied the more deferential substantial-evidence standard to review the Judge's findings, and he called upon the majority to reconsider its stance of giving a higher deference to arbitrators and regional directors than accorded to the Authority's administrative law judges.

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.