

CASE DIGEST: *U.S. Dep't of HHS, Office of Medicare Hearings & Appeals, 71 FLRA 678 (2020) (Member Abbott concurring; Chairman Kiko dissenting)*

In this case, the Arbitrator determined that the Agency acted arbitrarily and in violation of the parties' collective bargaining agreement when it denied the grievants' requests for a fourth day of telework. The Agency filed exceptions arguing that the Arbitrator's award failed to draw its essence from the parties' agreement, was based on a nonfact, and was contrary to law because it excessively interfered with management's rights to direct employees and assign work under § 7106(a)(2)(A) and (B) of the Statute. The Authority held that the Arbitrator's award was a plausible interpretation of the parties' agreement, that the Agency failed to put forth an argument providing a basis for finding the award based on a nonfact, and that the Arbitrator's award was not contrary to law, and denied the Agency's exceptions.

Member Abbott concurred with the decision that the award is not contrary to law, and stated that he would have clarified that the frequency of telework is inherent to management's right to assign work.

Chairman Kiko dissented because she would have found that the award failed to draw its essence from the plain wording of the parties' agreement.

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.