

CASE DIGEST: *Nat'l Weather Serv. Emps. Org.*, 71 FLRA 380 (2019)
(Member DuBester dissenting)

The parties' previous agreement contained a provision drafted by the Federal Service Impasse Panel, which provided that either party could terminate any and all sections of the agreement if a new agreement was not reached within ninety days. The Arbitrator found that, while the Agency violated the agreement when it terminated the previous agreement, the Agency's actions did not constitute an unfair labor practice. The Authority vacated the award finding that it failed to draw its essence from the parties' agreement. Revising its previous decision in *National Weather Service Employees Organization*, 71 FLRA 380 (2019), the Authority also found that the Agency's actions did not constitute an unfair labor practice because the record demonstrated that the previous agreement remained in effect until the approval of a new agreement.

Member DuBester dissented, concluding that he would uphold the Arbitrator's award finding that the Agency improperly terminated the parties' collective-bargaining agreement because the Agency's right to terminate the agreement expired when the Union and the Agency requested FMCS/FSIP assistance within the time period provided by the contract. He would also grant the Union's contrary-to-law exception to conclude that the Agency unlawfully repudiated the parties' agreement under § 7116(a)(1) and (5) of the Statute because it improperly terminated the entire agreement. Member DuBester noted his concern that the majority amended its decision after the U.S. Court of Appeals for the District of Columbia Circuit had denied the Authority's motion to remand the case for further analysis and discussion.

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.