

CASE DIGEST: *U.S. DHS, U.S. CBP, 71 FLRA 744 (2020)* (Member Abbott concurring; Member DuBester dissenting)

In this case, the Union alleged that the Agency violated a ground-rules agreement (GRA) when it ceased paying travel and per diem expenses for the Union's bargaining team during collective-bargaining-agreement negotiations. Section 2 of the GRA specifically provided that the Agency would pay the Union's travel and per diem expenses only through FY 2015. Nevertheless, the Arbitrator concluded that the GRA required the Agency to continue paying the Union's travel and per diem expenses beyond FY 2015, until the parties reached agreement on a new collective-bargaining agreement. The Authority found that, in reaching that conclusion, the Arbitrator impermissibly relied on extraneous considerations to interpret Section 2 in a manner incompatible with its plain and unambiguous wording. Accordingly, the Authority set aside the award as failing to draw its essence from the GRA.

Member Abbott agreed that the award fails to draw its essence from the parties' GRA but wrote separately to emphasize that contract negotiations which extend for years were neither imagined by Congress nor serve the American taxpayer who is left to pay the associated financial and performance costs for these protracted and minimally fruitful engagements.

Member DuBester dissented, finding that the Arbitrator reasonably concluded that the GRA's wording was not "plain and unambiguous," and that he properly considered evidence of the parties' intent in interpreting the GRA. Therefore, giving the appropriate deference to the Arbitrator, Member DuBester found that the award does not fail to draw its essence from the GRA. Member DuBester noted that Section 2 was designed to prevent the type of protracted bargaining that occurred in this case. He also expressed his view that the FLRA should not abandon its responsibility to assist parties in resolving their labor-management disputes through effective alternative dispute resolution procedures.

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.