

Case Digest: *U.S. Dep't of VA, John J Pershing VA Med. Ctr.*, 71 FLRA 769 (2020) (Member DuBester dissenting)

In this case, the Union sought environmental or hazard pay differential for Registered Nurses (RNs), Licensed Practical Nurses (LPNs), and other employees. The Arbitrator found that the grievance was not arbitrable as to the RNs, but found it arbitrable as to the LPNs and awarded hazard pay. The Authority denied the Union's exceptions challenging the Arbitrator's conclusion as to the RNs because the Authority found that the Union failed to show how the Arbitrator's reading of the relevant statute was erroneous. The Agency argued that the Arbitrator's finding that the LPNs were entitled to a hazard pay differential was contrary to law, and the Authority granted this exception, finding that the Arbitrator had failed to make the necessary factual findings to support the award.

Member DuBester dissented. Consistent with Authority precedent and the plain language of 38 U.S.C. § 7422, he would find that the Arbitrator was not authorized to exclude the grievance under this provision absent a § 7422(d) determination that pertained to the grievance. Member DuBester would also have remanded the award to the parties for the Arbitrator to make the necessary factual findings to resolve whether the LPNs were entitled to hazard pay.

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.