

CASE DIGEST: SSA, 71 FLRA 798 (2020)

This case concerned the Agency's performance assessments. The Arbitrator found that the Agency's reasons for lowering the grievant's ratings were not part of her performance standards. Based on the grievant's performance, the Arbitrator directed the Agency to raise the grievant's ratings, and to conduct all future assessments using certain criteria. The Agency filed exceptions arguing that the remedy for future assessments exceeded the arbitrator's authority, and the remedy changing the grievant's rating was based on a nonfact and violated management's rights to direct employees and assign work.

Reversing previous precedent, the Authority found that the Arbitrator exceeded his authority by awarding relief for future assessments because the issues for arbitration were expressly limited to a two-year time period. But the Authority rejected the Agency's nonfact argument and concluded that the Arbitrator's direction to change the grievant's rating based on evidence of her performance did not violate management's rights. Accordingly, the Authority set aside the remedy concerning future assessments, and otherwise denied the Agency's exceptions.

Member DuBester dissented in part, finding that the Arbitrator's remedy concerning the Agency's future assessments of the grievant was directly responsive to the issues before him and was within the Arbitrator's broad discretion to fashion an appropriate remedy for the Agency's contractual violations. Member DuBester also disagreed with the majority's decision to reverse precedent and found that the majority did not set forth a plausible rationale for the reversal.

Member Abbott dissented in part and argued that the Arbitrator's award should be vacated in its entirety because the remedy of a directed rating was unlawful. Arbitrators should not be empowered to direct an employee's specific rating for a performance period – as arbitrators are not in the best position to evaluate an employee's work performance over a rating period and to assign an employee a performance rating is a management right with which the Arbitrator here excessively interfered.

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.