

CASE DIGEST: *U.S. DOJ, Fed. BOP, Fed. Transfer Ctr., Okla. City, Okla.,*
72 FLRA 47 (2021) (Chairman Kiko dissenting in part,
Member DuBester dissenting in part)

With this case, the Authority reiterated that an award of backpay requires a finding that the grievant was subject to an unjustified or unwarranted personnel action. The Agency reassigned the grievant, a corrections officer, to a different position, without the opportunity to work overtime, due to security concerns pending an investigation into the grievant's interactions with an inmate. The Union filed a grievance alleging that the Agency inappropriately denied the grievant overtime during the reassignment.

The Arbitrator found the grievance timely and partially sustained the grievance on the merits. The Agency excepted to the Arbitrator's award on the ground that his procedural arbitrability finding did not draw its essence from the parties' agreement, and that the award was contrary to the Back Pay Act (BPA). The Authority denied the Agency's essence exception because the Arbitrator's interpretation of the relevant provision of that agreement was plausible. However, the Authority vacated the award because the Arbitrator did not find that the Agency violated an applicable law, rule, regulation, or provision of the parties' agreement as required under the BPA.

Although Chairman Kiko joined in the decision finding the award contrary to the BPA, she dissented, in part. It was undisputed that the grievant became aware that he could not earn overtime in the new position at the time of the reassignment. Therefore, Chairman Kiko found that the Arbitrator's conclusion that the grievance-filing deadline was not triggered until a later meeting failed to draw its essence from the parties' agreement.

Member DuBester dissented in part, finding that the award was not contrary to the BPA. In his view, the award, considered as a whole, demonstrated that the Arbitrator found that the Agency's delay in reinstating the grievant violated both Article 6.b. and Article 30.g. 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.