

**CASE DIGEST:** *NTEU*, 72 FLRA 423 (2021) (Member Abbott concurring; Chairman DuBester dissenting)

The Union filed an unfair-labor-practice (ULP) charge alleging that the Agency bargained in bad faith by disapproving the ground rules for a new term agreement. While the parties negotiated that term agreement, the Union filed four grievances, each alleging that the Agency committed a ULP by bargaining in bad faith. Four arbitration awards were issued, and exceptions were filed as to each of the awards.

The Authority consolidated the four cases given the similarities in facts and arguments. Because the Union's earlier-filed ULP charge and the grievances all arose while the parties were bargaining the same term agreement, and the ULP and the grievances advance substantially similar legal theories, the Authority found that § 7116(d) of the Federal Service Labor-Management Relations Statute (the Statute) barred the Union's grievances.

Member Abbott concurred, agreeing with the outcome of this matter, but had difficulty reconciling this matter with the majority's holding in *NLRB*.

Chairman DuBester dissented. In his view, the four grievances vacated by the majority's decision neither arose from the same set of factual circumstances, nor advanced substantially similar legal theories, as the Union's earlier-filed ULP charge. As such, the majority's application of § 7116(d) of the Statute to bar the grievances finds no support in either the plain language or the legislative purpose of this provision.

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.