

CASE DIGEST: *U.S DOJ, Fed. BOP, Fed. Corr. Inst., Dublin, Cal.*, 71 FLRA 183 (2019) (Member DuBester dissenting)

This case concerned the Agency's decision to vacate certain mission-critical posts in the absence of an emergency or other rare circumstance. The Arbitrator found that by vacating the posts, the Agency violated Article 27 of the parties' collective-bargaining agreement. Thus, she directed the Agency to cease and desist that practice. The Arbitrator further found that the Agency failed to comply with an earlier award addressing the same matter.

The Agency filed exceptions to the award. To the extent that the Agency's exceptions challenged the *earlier* award, the Authority dismissed them as untimely. However, the Authority addressed the Agency's argument that the more recent award conflicted with management's right to assign work under 5 U.S.C. § 7106(a)(2)(B). The Authority noted that the awarded cease-and-desist remedy precluded the Agency from vacating shifts except in emergency situations. Accordingly, consistent with Authority precedent, the Authority set aside the award as excessively interfering with the Agency's statutory right to assign work.

Member DuBester dissented, finding that matter at issue was solely a compliance action designed to enforce the earlier award. Accordingly, he would have dismissed the Agency's exceptions, in their entirety, as an improper collateral attack on the earlier award.

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.