

CASE DIGEST: *U.S. Dep't of State, Passport Servs.*, 71 FLRA 327 (2019)
(Member DuBester concurring; Chairman Kiko dissenting)

This case concerned a disagreement over whether the Union filed the grievance at the wrong step and, if so, whether that procedural error rendered the grievance not arbitrable. The Agency argued that the Arbitrator's award that found the grievance arbitrable failed to draw its essence from the parties' agreement because the Arbitrator ignored his own finding that the Union had filed the grievance at the wrong step. The Authority found that the award was not irrational, unfounded, implausible, or in manifest disregard of the agreement, and therefore denied the exception.

Based on the circumstances of the case, Member DuBester concurred in the decision to deny the Agency's exception.

Because the Arbitrator agreed with the Agency's interpretation of the parties' negotiated grievance procedure, Chairman Kiko would have found that the Arbitrator's reliance on equitable considerations to find the grievance arbitrable failed to draw its essence from the parties' agreement. Accordingly, she dissented.

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.