

CASE DIGEST: *U.S. Dep't of the Treasury, IRS and NTEU, Chapter 97, 71 FLRA 771*
(2020) (Member DuBester dissenting)

This case concerns a non-arbitrable classification matter under § 7121(c)(5) of the Federal Service Labor-Management Relations Statute. The Arbitrator found that the GS-4 grievants performed GS-6 duties and granted retroactive temporary promotions. On exceptions, the Authority found that the grievance was a non-arbitrable classification matter because the assigned duties providing the basis for the claim were not different from the duties that the GS-4 grievants performed in their permanent positions. Accordingly, the Authority set aside the award as contrary to § 7121(c)(5).

Member DuBester dissented, explaining that the majority's test for classification conflates arbitrability and the merits of a temporary promotion claim. For the reasons set forth by the Arbitrator, Member DuBester would find that the Union's grievance did not concern classification and was not barred by § 7121(c)(5) of the Statute.

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.