

CASE DIGEST: *U.S. Dep't of the Army, Ky. Nat'l Guard*, 73 FLRA 869 (2024)
(Member Kiko concurring)

The Arbitrator issued an award finding the Agency violated the Fair Labor Standards Act and the parties' collective-bargaining agreement by failing to properly compensate certain employees for overtime. As remedies, the Arbitrator directed the Agency to make the grievants whole, and provide them with liquidated damages. The Agency filed exceptions arguing implementation of the award is impossible, the award is based on a nonfact, and the Arbitrator exceeded his authority. The Authority denied the exceptions because they failed to demonstrate the award was deficient.

Member Kiko concurred, writing separately to highlight how the distributed locus of responsibility for employees in national-guard units puts state entities at a disadvantage. In this case, a federal agency created the position description that categorized the grievant as Fair-Labor-Standards-Act exempt, but when that categorization turned out to be incorrect, the state entity bore the cost for overtime backpay and liquidated damages.

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.