

CASE DIGEST: *U.S. Dep't of VA, James A. Haley Veterans Hosp. & Clinics*, 73 FLRA 880 (2024) (Member Kiko concurring)

The Arbitrator found a grievance concerning the grievant's performance appraisal procedurally arbitrable and granted it on the merits. The Agency filed exceptions on the grounds that the award was based on nonfacts, failed to draw its essence from the parties' agreement, and was contrary to law – specifically, § 7106 of the Federal Service Labor-Management Relations Statute (the Statute). The Authority denied the exceptions because the Agency did not demonstrate that the award was deficient.

Member Kiko concurred, reiterating her belief that supervisors are best qualified to rate employee performance, and that in some performance-rating arbitration cases, the only appropriate remedy will be to remand the matter to the agency. However, in the unique circumstances of this case – where the rating remedy was supported by specific evidence of the grievant's performance – the remedy did not violate § 7106 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.