

CASE DIGEST: *U.S. DHS, U.S. CBP*, 71 FLRA 119 (2019) (Member DuBester dissenting)

The Union president (grievant) requested sixty-four hours of official time for certain activities, but did not specify how much time he needed for each activity. The Agency asked the grievant to provide that information, he refused, and the Agency denied the request as excessive. The Arbitrator found that the parties' collective-bargaining agreement did not require the grievant to provide the additional information about his official-time request. Thus, the Arbitrator concluded that the Agency violated the agreement.

On exceptions, the Authority found that even when parties have agreed to procedures for requesting official time, those procedures must allow an agency to gather information necessary to make a reasoned determination as to whether the request is reasonable under 5 U.S.C. § 7131(d). Because the award prevented the Agency from determining how many hours of official time the grievant would use for each activity, the Agency could not determine whether the request was reasonable. Thus, the Authority set aside the award as contrary to § 7131(d).

Member DuBester dissented, finding that the Arbitrator was simply enforcing the terms of the parties' agreement, and asserting that the Authority's decision disregarded those terms as well as the deference owed to an arbitrator's interpretation of official time agreements under § 7131(d).

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.