

**CASE DIGEST:** *Indep. Union of Pension Emp. for Democracy & Just.*, 72 FLRA 281 (2021) (Chairman DuBester dissenting in part; Member Abbott dissenting in part)

In this case, the Authority reminds federal-sector arbitrators and agency and union practitioners that when addressing issues concerning interference with management rights under § 7106 of the Federal Service Labor-Management Relations Statute, it is imperative to specify which management right is at issue. Here, the Arbitrator found that the Agency did not unlawfully repudiate the parties' agreement by terminating a special-achievement-awards program, because two provisions interfered with management's rights. The Authority affirmed the Arbitrator's conclusion that a provision, which mandated a percentage of awards funds to be allocated for the special-achievement-awards program, interfered with management's right to determine its budget. However, the Authority set aside the Arbitrator's conclusion that another provision interfered with the right to "determine the criteria for awarding employees" because that is not an enumerated right under § 7106.

Chairman DuBester partially dissented, finding that the Arbitrator erred by concluding that Article 3, Section 2(D) of the parties' collective-bargaining agreement interferes with management's right to determine its budget. In Chairman DuBester's view, this provision does not interfere with this management right because it does not dictate the amount the Agency must allocate towards its overall awards budget, but instead merely determines the portion of this budgeted amount that will be devoted to a particular type of award.

Member Abbott dissented in part because he could not join the majority in their conclusion that the Arbitrator failed to identify a management right under § 7106 that was impacted by Article 3, Section 2(A). Accordingly, Member Abbott believed the Arbitrator *did* identify a management right impacted by Section 2(A) and would have denied the Union's exception.

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.