

CASE DIGEST: *U.S. Marine Corps, Marine Corps Air Ground Combat Ctr., Twentynine Palms*, 73 FLRA 379 (2022) (Member Kiko dissenting in part).

In this case, the Arbitrator determined that the grievance concerned a temporary promotion and that it did not involve classification under § 7121(c)(5) of the Federal Service Labor Management Relations Statute (the Statute). On review, the Authority found that the Arbitrator properly found that the grievance did not involve classification. Importantly, the Authority noted that it will no longer follow *U.S. Small Business Administration*, 70 FLRA 729 (2018) (*SBA I*) (then-Member DuBester dissenting) and Authority decisions following it, because those decisions do not provide an adequate justification for switching the Authority's classification standards. Rather, the Authority will return to the classification standard applied by the Authority prior to *SBA I*. Additionally, the Authority held that the award is contrary to § 7122(b) of the Statute insofar as it requires the Agency to take any action before the award becomes final and binding. Accordingly, the Authority denied the Agency's exceptions in part, granted them in part, and modified the award in accordance with the decision.

Member Kiko would have upheld the Arbitrator's finding that the grievance did not concern classification under the standard articulated in *SBA I*. Because the majority applied a deficient pre-*SBA I* standard to resolve the Agency's classification exception, and failed to provide a basis for departing from *SBA I* and subsequent decisions that follow that precedent, she dissented in part.

This case digest is a summary of an order 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.