



U.S. MERIT SYSTEMS PROTECTION BOARD

Case Report for July 31, 2020

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COURT DECISIONS

NONPRECEDENTIAL:

Green v. Office of Personnel Management, No. [2019-2376](#) (Fed. Cir. July 27, 2020) (MSPB Docket No. CH-0845-18-0576-I-1): The court denied the appellant's petition and affirmed the administrative judge's decision, which affirmed OPM's reconsideration decision concerning (1) the termination of the appellant's disability annuity based upon her earned income exceeding the allowable limit and (2) the overpayment she received as a result. On the first point, the court found it appropriate to defer to OPM's interpretation of 5 C.F.R. § 844.402 regarding the inclusion of certain money the appellant's employer provided in lieu of a health-and-welfare benefit in calculating her income. On the second point, the court found that the appellant failed to establish that recovery of her overpayment would be against equity and good conscience.

Lee v. Federal Aviation Administration, No. [2019-1790](#) (Fed. Cir. July 29, 2020) (Arbitration No. CSA-18-G2018-00731-ESW): The court denied the appellant's petition and affirmed the arbitrator's award, which found that the agency proved each of its charges, but reduced the penalty from a 45-day suspension to 30 days because the disciplinary action was not prompt, as required by the collective bargaining agreement. Although the appellant disputed the underlying charges

once more, the court agreed with the arbitrator's determination that the agency proved each—misuse of Government property, misuse of Government time, and lack of candor.

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