## U.S. Office of Personnel Management Compensation Claim Decision Under section 3702 of title 31, United States Code

**Claimant:** [name]

**Organization:** U.S. Department of Labor

Jacksonville, Florida

Claim: Lump sum payment for annual leave

**Agency decision:** N/A

**OPM decision:** Denied; Lack of jurisdiction

**OPM file number:** 14-0018

/s/ Linda Kazinetz for

Robert D. Hendler Classification and Pay Claims Program Manager Agency Compliance and Evaluation Merit System Accountability and Compliance

6/10/14\_\_\_\_\_

Date

The claimant seeks "monies owed and documentation never presented" from her former employing agency, the U.S. Department of Labor (DoL). We received the claim on January 16, 2014, and information from the agency at our request on February 12, 2014. For the reasons discussed herein, the claim is denied.

OPM settles Federal civilian employee compensation and leave claims under the provisions of section 3702(a)(2) of title 31, United States Code (U.S.C.), and part 178 of title 5, Code of Federal Regulations (CFR). Section 178.102(a) of 5 CFR indicates that the claimant's employing agency must review and issue a written decision on a compensation claim before it is submitted to OPM for adjudication. The claimant is responsible for preserving the claim period by proving the signed, written claim was filed within the applicable statute of limitations. *See* 5 CFR 178.104. The information provided by the claimant with her request does not show she has filed a signed, written claim with the agency component authorized to issue an agency-level decision or that she has received such a decision. Rather, she presented correspondence with DoL asking the agency to "audit [her] personnel file" because she believed she was due additional monies for lump sum annual leave and unused credit hours. "Further, OPM's authority under 31 U.S.C. § 3702 is narrow and limited to adjudication of compensation and leave claims. OPM's authority under 31 U.S.C. § 3702(a)(2) does not extend to obtaining agency payroll or other records at the request of an employee or former employee. Nevertheless, we may render a decision on her claim based on lack of jurisdiction.

Section 7121(a)(1) of title 5, U. S. C., directs that except as provided elsewhere in the statute, the grievance procedures in a negotiated collective bargaining agreement (CBA) shall be the exclusive administrative remedy for resolving matters that fall within the coverage of the CBA. The Court of Appeals for the Federal Circuit has found the plain language of 5 U.S.C. § 7121(a)(1) to be clear, and as such, limits the administrative resolution of a Federal employee's grievance to the negotiated procedures set forth in the CBA. *Mudge v. United States*, 308 F.3d 1220, 1228 (Fed. Cir. 2002). Further, the Federal Circuit also found that all matters not specifically excluded from the grievance process by the CBA fall within the coverage of the CBA. *Id. at 1231*. As such, OPM cannot assert jurisdiction over the compensation or leave claims of Federal employees who are or were subject to a negotiated grievance procedure (NGP) under a CBA between the employee's agency and labor union for any time during the claim period, unless the matter is or was specifically excluded from the CBA's NGP. *See* 5 CFR 178.101(b).

The record shows the claimant occupied a bargaining unit position while employed by DoL. The CBA between DoL and the National Council of Field Labor Locals, American Federation of Government Employees, covering the claimant during the period of the claim does not specifically exclude compensation issues from the NGP (Article 15). Therefore, this claim must be construed as covered by the NGP the claimant was subject to during the claim period, and OPM has no jurisdiction to adjudicate this claim. As is clear in *Muniz v. United States*, 972 F.2d 1304 (Fed. Cir. 1992), the fact that the claimant is no longer employed by DoL does not remove the Civil Service Reform Act's jurisdictional bar for claims covered by the CBA arbitration and grievance procedures that arose during and from her employment with DoL.

<sup>&</sup>lt;sup>1</sup> The claimant also appears to seek monies for accrued sick leave. There is no provision in law authorizing a lump sum payment for accrued sick leave. *See* 5 U.S.C. § 5551 and § 6307.

This settlement is final. No further administrative review is available within OPM. Nothing in this settlement limits the claimant's right to bring an action in an appropriate United States court.