

**U.S. Office of Personnel Management  
Leave Claim Decision  
Under section 3702 of title 31, United States Code and**

**Claimant:** [name]

**Organization:** [agency component]  
U. S. Air Force  
[installation & State]

**Claim:** Reinstatement of leave deducted due  
to incorrect service computation date

**Agency decision:** N/A

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

**OPM file number:** 13-0010

/s/ Judith A. Davis for

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

9/19/13

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Date

The claimant, currently employed with the U.S. Department of the Air Force (USAF), requests that 243 hours of annual leave be restored that was deducted from her leave account due to an incorrect service computation date (SCD) leave determination by the agency. She states: "One point stays constant - that is 'none of this is due to any fault on my part' . . .," and asks that provisions be put in place so that employees affected by "agency administrative error" in the over-crediting of leave do not have the excess leave deducted from their leave accounts. (emphasis omitted). We received the claim on December 20, 2012, and additional information from the agency on January 23, January 25, and April 22, 2013. For the reasons discussed herein, the claim is denied.

OPM has authority to adjudicate compensation and leave claims for many Federal employees under the provisions of section 3702(a)(2) of title 31, United States Code (U.S.C.). However, 5 U.S.C. §7121(a)(1) 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, leave, or FLSA 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).

Information provided by the agency shows the claimant occupies a bargaining unit position. The Labor Management Agreements between [installation] and the American Federation of Government Employees, Local [number], covering the claimant during her employment with the agency, and in effect during the period of the claim, do not specifically exclude compensation issues from the NGP (Article 28 in the CBAs effective November 2003 and October 2010). Therefore, this claim must be construed as covered by the NGPs the claimant was subject to during the claim period and OPM has no jurisdiction to adjudicate this claim.<sup>1</sup>

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.

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<sup>1</sup> The record contains a November 6, 2012, letter from the Inspector General, Headquarters Air Force Personnel Center, Joint Base San Antonio-Randolph, Texas, erroneously advising the claimant OPM had "waiver authority for restoration of [her] leave hours." Although we do not have authority to settle this claim, we note OPM's claim settlement authority does not extend to restoring leave erroneously credited by an agency contrary to law and regulation.