

Date: December 10, 2002

Claimant: [name]

File Number: 02-0033

OPM Contact: Deborah Y. McKissick

The claimant is employed as a Foreign Service Officer in the Foreign Service with the U.S. Agency for International Development (USAID). The claimant is requesting locality pay while on annual leave and after reporting to duty in the United States at the conclusion of overseas assignments. The Office of Personnel Management (OPM) received the compensation claim on July 11, 2002, and the agency administrative report on September 17, 2002. For the reasons discussed herein, the claim is denied.

The claimant believes he was not properly compensated after returning to the United States at the conclusion of overseas tours in the Philippines and Kenya. The claimant returned to the United States on July 10, 2001, after completing a tour of duty in the Philippines. The periods of the claim include July 10, 2001, to July 20, 2001, while the claimant was on annual leave at the conclusion of his tour in the Philippines tour; July 23 to July 27, 2001, while on assignment in the United States; and October - November 1996, regarding his Kenya assignment.

The agency administrative report stated that the agency denied the claimant's request for locality pay for the period July 10, 2001, to July 22, 2001, because he was officially assigned to the Washington, DC office. Prior to returning to a United States assignment, the overseas office approved the claimant's home leave and annual leave. The employee remains on the overseas office's payroll until the ending date of the authorized leave. Therefore, the claimant was on the overseas office's payroll while on leave during the period July 10, 2001, through July 22, 2001. The effective date of his reassignment to Washington, DC, was July 23, 2001, the beginning date of a new pay period.

In the agency administrative report, the agency agreed with the claimant that employees who were reassigned to the Washington, DC office during the October - November 1996 period lost locality pay when the effective date of the reassignment to the Washington, DC office was in the middle of a pay period "because the old system did not allow for pay changes in the middle of a pay period." As a result of this situation, an employee's reassignment date began on the first full pay period after the employee reported for duty in the Washington, DC office. The agency's conversion to the National Finance Center's personnel/payroll system, in October 2000, eliminated this problem. Subsequently, the agency now uses the employee's reporting date for duty in Washington, DC, as the effective date of the reassignment.

In accordance with 5 U.S.C. § 5304(f)(1)(A), locality pay is excluded for any positions outside the continental United States. 5 CFR 531.602 describes the official duty station as “the duty station for an employee’s position of record as indicated on his or her most recent notification of personnel action.” Therefore, when the claimant’s official duty station was in the Philippines or Kenya, he was not entitled to receive locality pay.

OPM does not conduct investigations or adversary hearings in adjudicating claims, but relies on the written record presented by the parties. *See Frank A. Barone*, B-229439, May 25, 1988. Where the agency’s factual determination is reasonable, we will not substitute our judgment for that of the agency. *See, e.g., Jimmie D. Brewer*, B-205452, Mar. 15, 1982, as cited in *Philip M. Brey, supra*.

This settlement is final. No further administrative review is available within the Office of Personnel Management. Nothing in this settlement limits the claimant’s right to bring an action in an appropriate United States Court.