

Leave Claim Decision
Under section 3702 of title 31, United States Code

Claimant: [name]

Organization: U.S. Postal Service

Claim: Sick Leave Recredit

Agency decision: N/A

OPM decision: Claim Denied; Lack of Jurisdiction

OPM file number: 07-0025

/s/ for

Robert D. Hendler
Classification and Pay Claims
Program Manager
Center for Merit System Accountability

4/30/2007

Date

The claimant is employed by the United States Postal Service (USPS). In his April 3, 2007, letter he appears to request the Office of Personnel Management (OPM) to direct USPS to recredit 170.90 hours of earned sick leave he forfeited when he left USPS employment in 1989. We received the claim request on April 18, 2006. For the reasons discussed herein, we do not have jurisdiction to consider this claim.

The claimant states the basis of his request “is regulation 5 CFR 630.502(b). USPS policy contradicts the regulation.” The claimant provided a copy of USPS “regulation 513.72 in USPS Employee and Labor Relations Manual” which states “Sick leave may be recredited upon reemployment provided there is no break in service in excess of 3 years.”

OPM does not have any authority to investigate or settle claims made against an agency which has independent settlement authority under the law. The applicable law in this case, section 2008(c) of title 39, United States Code, states:

Subject only to the provisions of this chapter, the Postal Service is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements, upon such terms and conditions and in such manner as it deems necessary, including the final settlement of all claims and litigation by or against the Postal Service.

This statutory provision authorizes the USPS to consider and settle all claims made against it. Therefore, we do not have the authority to consider or settle this claim.

Although we do not have jurisdiction to settle this claim, we note the claimant relies on the provisions of 5 CFR § 630.502. Employees covered by that regulation are individuals who meet the definition of “employee” in 5 U.S.C. § 6301. Section 6301(2)(A) of 5 U.S.C., in turn, defines “employee” as an “employee” as defined by section 5 U.S.C. § 2105. Section 2105(e) states: “Except as otherwise provided by law, an employee of the United States Postal Service or of the Postal Commission is deemed **not** [emphasis added] an employee for purposes of this title.” Therefore, USPS employees are not covered by the sick leave regulation (5 CFR § 630.502) cited by the claimant.

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