

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

Claimant: [name]

Organization: Gentile Station
Department of the Air Force
Kettering, Ohio

Claim: Monies Due from Prior Employment

Agency decision: N/A

OPM decision: Denied; Time Barred

OPM file number: 07-0041

/s/ for

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

9/28/2007

Date

The claimant asserts she is due monies for a prior period of employment with a Federal agency; i.e., Shelby Warehouse in Shelby, Ohio, some time after June 1954 but before her employment at Gentile Station, Department of the Air Force, from March 9, 1959, until she retired in late February or early March 1962. The U.S. Office of Personnel Management (OPM) received the May 26, 2007, claim request on June 26, 2007. For the reasons discussed herein, the claim is time barred and must be denied.

Part 178 of title 5, Code of Federal Regulations (CFR), concerns the adjudication and settlement of claims for compensation and leave performed by OPM under the provisions of section 3702(a)(2) of title 31, United States Code (U.S.C.). Section 178.102(a)(3) of title 5 CFR requires that an employing agency already has reviewed and issued an initial decision on a claim before it is submitted to OPM for adjudication. Based on the information submitted, we find no record of the claimant having filed a claim with her former employing agency or having received a written agency-level decision. However, we may render a decision on this matter based on jurisdictional grounds.

According to section 178.104(a) of title 5, Code of Federal Regulations, all claims against the United States Government are subject to the six-year statute of limitations contained in 31 U.S.C. 3702(b). To satisfy the statutory limitation, a written claim must be received by the department or agency out of whose activities the claim arose or by OPM, within six years from the date the claim accrued. Matter of Robert O. Schultz, B-261461 (November 27, 1995). A claimant is responsible for proving when the claim was received by the agency or by OPM. The claim must be in writing and must be signed by the claimant or their designated representative (5 CFR 178.102(a)). The Barring Act does not merely establish administrative guidelines; it specifically prescribes the time within which a claim must be received in order for it to be considered on its merits. Matter of Nguyen Thi Hao, B-253096, (August 11, 1995). OPM does not have any authority to disregard the provisions of the Barring Act, make exceptions to its provisions, or waive the time limitation that it imposes. See Matter of Nguyen Thi Hao, *supra*; Matter of Jackie A. Murphy, B-251301 (April 23, 1993); Matter of Alfred L. Lillie, B-209955, May 31, 1983.

We are sympathetic to the claimant's description of her circumstances. However, even assuming, *arguendo*, that Shelby Warehouse was a Federal activity, the claimant has not submitted proof she ever preserved her claim with her former employing agency. Therefore, we must conclude the claim was preserved no earlier than June 26, 2007, for back pay for compensation accrued sometime after June 1954 and sometime before March 9, 1959. This claim clearly exceeds the six-year statute of limitations and her claim period would have expired no later than March 9, 1965. Therefore, the claim is barred from our consideration and may not be allowed.

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.