

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

Claimant: [name]

Organization: [agency component]
Department of the Navy
[city & State]

Claim: Back pay from March 27, 1989
through March 27, 2008

Agency decision: N/A

OPM decision: Denied; Lack of jurisdiction

OPM file number: 08-0099

//Judith A. Davis for

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

11/4/2008

Date

The claimant states he is a former civilian employee of the [installation] and seeks “compensation based on illegal termination.” The claimant’s May 22, 2008, letter to President Bush was initially referred to the U.S. Department of Labor (DoL). DoL’s July 7, 2008, letter to the claimant advised the claimant it does not regulate personnel matters involving Federal employees and indicated DoL was forwarding his request to the U.S. Office of Personnel Management (OPM). OPM received the claimant’s request on July 15, 2008. For the reasons discussed herein, the claim is denied for lack of subject-matter jurisdiction.

The claimant states he worked for [installation] in a Warehouse Worker, WG-6907-5 job, paid at the Step 2 level, from June 29, 1987, under a Veterans Readjustment Act appointment, until he was terminated on March 27, 1989. He states:

After many years I carefully studied my federal form 50 (my termination paper from the shipyard) and found that it didn’t contain an authorized signature making it legal. Since I was illegally terminated from the shipyard I am seeking back pay for 19 years....

The fact that the [installation] was closed in 1993 shouldn’t limit the liability from paying the claim.

The Notification of Personnel Action (Standard Form (SF) 50) provided by the claimant shows he was discharged during his probationary period under the provisions of section 315.804 of title 5, Code of Federal Regulations (CFR).

Part 178 of title 5, 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, Code of Federal Regulations, requires an employing agency to have already 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’s having filed a claim with his former employing agency or having received a written agency-level decision. However, we may render a decision on this matter based on jurisdictional grounds.

OPM’s authority under 31 U.S.C. § 3702 is narrow and limited to the adjudication of compensation and leave claims. Section 3702 does not include the authority to review the propriety of the claimant’s termination during his probationary period. The termination of a probationary employee is appealable to the Merit Systems Protection Board for the limited circumstances defined in 5 CFR 315.806. Accordingly, OPM has no jurisdiction to adjudicate the claimant’s pay claim.

Although we may not issue a decision in this matter, we note the claimant’s reliance on an unsigned SF 50 as undermining the legality of his removal is misplaced. Personnel action approval is documented by the appointing officer’s signature in block 50 of the SF 50 **or** in Part C-2 of the SF 52, Request for Personnel Action. Unlike SF 50s, employees do not receive copies of SF 52s.

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.