

Date: March 16, 2006
Claimant: [name]
File Number: 05-0048
OPM Contact: Robert D. Hendler

The claimant is employed in a [WG-11] job in the [directoratge] at Corpus Christi Army Depot (CCAD) in Corpus Christi, Texas. His representative requests that the U.S. Office of Personnel Management (OPM) direct his agency to pay him at the WS-9, Step 1, rate of pay from June 2000 through February 2001, and to change his SF-50 to show a detail as a WS-9, Step 1, for that period of time. The representative requests that pay differentials, including night differential, should be included in the evaluation and assessment of the claim. For the reasons discussed herein, OPM does not have jurisdiction to adjudicate this claim.

OPM is responsible for reviewing and adjudicating all claims related to compensation and leave for civilian positions under the provisions of section 3702(b) of title 31, United States Code (U.S.C). However, OPM cannot take jurisdiction over the compensation or leave claims of Federal employees *that are or were subject* to a negotiated grievance procedure (NGP) under a collective bargaining agreement (CBA) between the employee's agency and labor union for any time during the claim period, unless that matter is or was specifically excluded from the agreement's NGP. (Emphasis added). The Federal courts have found that Congress intended that such grievance procedures are the exclusive administrative remedy for matters not excluded from the grievance process. *Carter v. Gibbs*, 909 F.2d 1452, 1454-55 (Fed. Cir. 1990) (en banc), *cert. denied*, *Carter v. Goldberg*, 498 U.S. 811 (1990); *Mudge v. United States*, 308 F.3d 1220 (Fed. Cir. 2002). Section 7121(a)(1) of title 5 U.S.C. mandates that the grievance procedures in negotiated CBAs be the exclusive administrative procedures for resolving matters covered by the agreements. *Accord, Paul D. Bills, et al.*, B-260475 (June 13, 1995); *Cecil E. Riggs, et al.*, 71 Comp. Gen. 374 (1992).

During the claim period, the claimant occupied a job covered by a CBA between the American Federation of Government Employees, Local 2142, and the CCAD. Compensation and leave issues are not specifically excluded from the NGP (Article 20) covering the claimant. For OPM purposes, that such matters are not specifically excluded from the NGP is enough to remove this claim from OPM jurisdiction.

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.